

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

ALBERTO OVALLE,	§
	§
PLAINTIFF,	§
	§
VS.	§ CIVIL ACTION
	§ NO. 2:18-CV-00211-D-BR
	§
UNITED RENTALS	§
(NORTH AMERICA), INC.,	§ JURY TRIAL
	§
DEFENDANT.	§

ORAL AND VIDEOTAPED DEPOSITION OF
MICHAEL KARABANOFF
AUGUST 12, 2019

ORAL AND VIDEOTAPED DEPOSITION of MICHAEL KARABANOFF, produced as a witness at the instance of Plaintiff, and duly sworn, was taken in the above-styled and numbered cause on 12th of August, 2019, beginning at 10:03 a.m. to 2:41 p.m., before Lisa D. Sanchez, CSR in and for the State of Texas, recorded by machine shorthand, at the offices of Fee, Smith, Sharp & Vitullo, L.L.P., 2777 Allen Parkway, Suite 800, Houston, Harris County, Texas, pursuant to the Federal Rules of Civil Procedure and the provisions stated on the record or attached hereto.

2 (Pages 2 to 5)

<p style="text-align: right;">2</p> <p>1 I N D E X</p> <p>2 PAGE</p> <p>3 Appearances 3</p> <p>4 Stipulations 4</p> <p>5 MICHAEL KARABANOFF</p> <p>6 Examination by Mr. Haynes 4</p> <p>7 Changes and Signature 198</p> <p>8 Reporter's Certification 199</p> <p>9</p> <p>10 E X H I B I T S</p> <p>11 NO. DESCRIPTION</p> <p>12 1 *</p> <p>13 First Amended Notice of Intention to Take</p> <p>14 the Oral /Videotaped Deposition of United</p> <p>15 Rentals (North America), Inc.</p> <p>16 2 56</p> <p>17 Monthly Training entitled "Safety is a Core</p> <p>18 Value"</p> <p>19 3 62</p> <p>20 Monthly Training entitled "Hazard 360"</p> <p>21 4 69</p> <p>22 Policy and Procedure Bulletin</p> <p>23 Subject: Personal Safety Responsibility</p> <p>24 5 80</p> <p>25 Policy and Procedure Bulletin</p> <p>Subject: Employee Safety and Health</p> <p>6 137</p> <p>7 Incident Investigation Report</p> <p>8 159</p> <p>9 Patient Interview Printable</p> <p>10 183</p> <p>11 8 Defendant's First Supplemental Objections</p> <p>12 and Answers to Plaintiff's First Set of</p> <p>13 Interrogatories</p> <p>14 9 190</p> <p>15 Performance Document</p> <p>16 * Marked prior to the deposition</p>	<p style="text-align: right;">4</p> <p>1 S T I P U L A T I O N S</p> <p>2 (Deposition commenced at 10:03 a.m.)</p> <p>3 THE VIDEOGRAPHER: We're on the record</p> <p>4 August 12, 2019. The time is 10:03 a.m.</p> <p>5 Will the court reporter please swear in</p> <p>6 the witness?</p> <p>7 THE REPORTER: And do you want to waive</p> <p>8 Federal Rule 30(b)(5)?</p> <p>9 MR. HAYNES: Yes.</p> <p>10 MR. WRIGHT: Yes.</p> <p>11 THE REPORTER: And any other</p> <p>12 stipulations you'd like to put on the record?</p> <p>13 MR. HAYNES: Just by the Rules.</p> <p>14 MR. WRIGHT: Yes.</p> <p>15 MICHAEL KARABANOFF,</p> <p>16 having been first duly sworn, testified as follows:</p> <p>17 EXAMINATION</p> <p>18 BY MR. HAYNES (10:04 A.M.):</p> <p>19 Q. Good morning.</p> <p>20 A. Good morning.</p> <p>21 Q. State your name, please.</p> <p>22 A. Michael Karabanoff.</p> <p>23 Q. Mr. Karabanoff, my name's Kevin Haynes. I</p> <p>24 represent Al Ovalle in a case he's brought against</p> <p>25 United Rentals (North America) as a result of injuries</p>
<p style="text-align: right;">3</p> <p>1 A P P E A R A N C E S</p> <p>2 FOR THE PLAINTIFF:</p> <p>3 Mr. Kevin C. Haynes</p> <p>4 WILLIAMS HART BOUNDAS EASTERBY, L.L.P.</p> <p>5 8441 Gulf Freeway, Suite 600</p> <p>6 Houston, Texas 77017-5001</p> <p>7 Phone: (713) 230-2200 Fax: (713) 643-6226</p> <p>8 E-mail address: pi.dept@whlaw.com</p> <p>9 FOR THE DEFENDANT:</p> <p>10 Mr. Jeff C. Wright</p> <p>11 FEE, SMITH, SHARP & VITULLO, L.L.P.</p> <p>12 Three Galleria Tower</p> <p>13 13155 Noel Road, Suite 1000</p> <p>14 Dallas, Texas 75240</p> <p>15 Phone: (972) 934-9100 Fax: (972) 934-9200</p> <p>16 E-mail address: jwright@feesmith.com</p> <p>17 THE VIDEOGRAPHER:</p> <p>18 Mr. Brian Bobbitt</p> <p>19 COMPLETE LEGAL SUPPORT</p> <p>20 3701 Kirby Drive, Suite 500</p> <p>21 Houston, Texas 77098</p> <p>22 Phone: (713) 521-3330 Fax: (713) 521-9899</p> <p>23 E-mail address: clsvideo@prodiqy.net</p> <p>24</p> <p>25</p>	<p style="text-align: right;">5</p> <p>1 he sustained in March of 2017. Do you understand who</p> <p>2 I am?</p> <p>3 A. Uh-huh, I do.</p> <p>4 Q. Do you understand why we're here today?</p> <p>5 A. I do.</p> <p>6 Q. Have you ever been deposed before?</p> <p>7 A. No.</p> <p>8 Q. Well, congratulations on your first</p> <p>9 deposition.</p> <p>10 I assume you had a chance to meet with</p> <p>11 your attorney and go over the rules, but let me go</p> <p>12 over them briefly so we can remain on the same page.</p> <p>13 This is obviously a question and answer format.</p> <p>14 Everything that's being said in the room is being</p> <p>15 taken down by the court reporter to my right. It's,</p> <p>16 therefore, important for us to make a clear record.</p> <p>17 We can do that by me letting you finish your answer</p> <p>18 and you letting me finish my question. Does that</p> <p>19 sound fair?</p> <p>20 A. Yes.</p> <p>21 Q. It's important to answer verbally as opposed</p> <p>22 to hand gestures or uh-huhs or huh-uhs, things like</p> <p>23 that, because those are harder for her to take down.</p> <p>24 Do you understand?</p> <p>25 A. Yes.</p>

<p style="text-align: right;">6</p> <p>1 Q. I may ask bad questions today. I'm sorry 2 about that in advance. If I do, please ask me to 3 repeat or rephrase; and I will try to clear them up 4 for you, okay?</p> <p>5 A. Okay.</p> <p>6 Q. I may also show you documents today. Please 7 take as long as you need to familiarize yourself with 8 them so you can understand what they are before you 9 answer a question about them; is that fair?</p> <p>10 A. Yes.</p> <p>11 Q. And it's not a hostage situation. So, if you 12 need to take a break, please let me know; and we'll 13 try to accommodate you. But please just don't take a 14 break between a question and answer, okay?</p> <p>15 A. Okay.</p> <p>16 Q. And if you answer my question, I'm going to 17 assume you understood it. Is that fair?</p> <p>18 A. Fair.</p> <p>19 Q. What is your job title?</p> <p>20 A. Safety director.</p> <p>21 Q. And state your name one more time, please?</p> <p>22 A. Michael Karabanoff.</p> <p>23 Q. And what is your job title?</p> <p>24 A. Safety director.</p> <p>25 Q. Safety director for whom?</p>	<p style="text-align: right;">8</p> <p>1 Q. It operates internationally, correct?</p> <p>2 A. To some extent, yes.</p> <p>3 Q. Does it operate in all 50 states?</p> <p>4 A. No.</p> <p>5 Q. How many states does it operate in?</p> <p>6 A. I'm not sure.</p> <p>7 Q. Okay. We know it operates in Texas, true?</p> <p>8 A. True.</p> <p>9 Q. Oklahoma?</p> <p>10 A. True.</p> <p>11 Q. Louisiana?</p> <p>12 A. Yes.</p> <p>13 Q. New Mexico?</p> <p>14 A. Yes.</p> <p>15 Q. California?</p> <p>16 A. Yes.</p> <p>17 Q. Florida?</p> <p>18 A. Yes.</p> <p>19 Q. Any others you can think off the top of your 20 head in the southern United States?</p> <p>21 A. Most southern states are covered by United 22 Rentals.</p> <p>23 Q. All right. You understand that you're under 24 oath, right?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">7</p> <p>1 A. For the tools region for United Rentals.</p> <p>2 Q. And what geographic region does that cover 3 exactly?</p> <p>4 A. It covers the line of business.</p> <p>5 Q. You called it the tools region?</p> <p>6 A. Yes.</p> <p>7 Q. Could you just tell me what that means in 8 plain English, please?</p> <p>9 A. Tools region provides small tools for 10 different contractors that are traveling around the 11 U.S. doing construction jobs.</p> <p>12 Q. And you live and work in Houston, Texas, 13 right?</p> <p>14 A. Correct.</p> <p>15 Q. But your responsibility covers beyond just 16 Houston or even just the state of Texas, right?</p> <p>17 A. Correct.</p> <p>18 Q. It's nationwide?</p> <p>19 A. Correct.</p> <p>20 Q. And United Rentals is the largest heavy 21 equipment rental company in the United States, right?</p> <p>22 A. To my knowledge.</p> <p>23 Q. And it's actually a multinational company, 24 isn't it?</p> <p>25 A. As of recently, yes.</p>	<p style="text-align: right;">9</p> <p>1 Q. And you understand that the oath you just took 2 has the same meaning and obligation to tell the truth 3 as if you had taken it before a judge and jury in a 4 court of law, correct?</p> <p>5 A. Correct.</p> <p>6 Q. And you take the oath seriously, don't you?</p> <p>7 A. Yes.</p> <p>8 Q. What -- could you just describe for us your 9 basic job responsibilities?</p> <p>10 A. My job responsibility for United Rentals is to 11 ensure that I -- I guide my region and set standards 12 for branch managers to execute at a branch level 13 towards their employees, whether it be federal, state 14 regulations, company initiatives, as well as region 15 initiatives for the year.</p> <p>16 Q. All right. What is -- strike. New question. 17 Tell me what a branch manager is.</p> <p>18 A. Branch manager is responsible for the profit, 19 gross loss, assets, asset management, customer care of 20 that branch.</p> <p>21 Q. And when you say "branch," you mean like a 22 store, like a facility, right?</p> <p>23 A. Correct.</p> <p>24 Q. How many facilities does United Rentals have 25 in the United States? Do you know?</p>

<p style="text-align: right;">10</p> <p>1 A. I'm not sure.</p> <p>2 Q. Is it in the hundreds?</p> <p>3 A. I believe so.</p> <p>4 Q. How many does it have in Texas?</p> <p>5 A. I couldn't tell you right off the top of my</p> <p>6 head.</p> <p>7 Q. The incident we're here talking about today</p> <p>8 took place at the Canyon, Texas, facility, right?</p> <p>9 A. Correct.</p> <p>10 Q. And Canyon is near Amarillo, correct?</p> <p>11 A. Correct.</p> <p>12 Q. Back in 2017, were you still the safety</p> <p>13 director for the tools region?</p> <p>14 A. Correct.</p> <p>15 Q. How long have you been the safety director for</p> <p>16 the tools region?</p> <p>17 A. Since 2013.</p> <p>18 Q. Who was the branch manager for the Canyon</p> <p>19 facility in 2017?</p> <p>20 A. At the time, Art was overseeing the</p> <p>21 operations, reporting to the district manager, Carlos</p> <p>22 Ortegon.</p> <p>23 Q. Could you spell his last name?</p> <p>24 A. O-r-t-e-g-o-n.</p> <p>25 Q. And did you mention somebody else in that</p>	<p style="text-align: right;">12</p> <p>1 either get a branch manager or possibly promote Art</p> <p>2 Silva into that role.</p> <p>3 Q. Who was the previous branch manager for the</p> <p>4 Canyon location?</p> <p>5 A. I don't remember.</p> <p>6 Q. Do you know how long it had been, as of the</p> <p>7 time of this incident, since the Canyon facility had a</p> <p>8 branch manager?</p> <p>9 A. I'm not sure.</p> <p>10 Q. Do you know the circumstances under which the</p> <p>11 prior branch manager left the company?</p> <p>12 A. No, I do not.</p> <p>13 Q. Do you know anyone at the company that would</p> <p>14 know that?</p> <p>15 A. No, I -- I wouldn't.</p> <p>16 Q. So, you were living and working in Houston</p> <p>17 back in 2017?</p> <p>18 A. Correct.</p> <p>19 Q. Did the Canyon facility comprise any divisions</p> <p>20 aside from the tools division?</p> <p>21 A. Yes, they did.</p> <p>22 Q. What other divisions operated under that</p> <p>23 facility?</p> <p>24 A. Pumps.</p> <p>25 Q. What does that mean?</p>
<p style="text-align: right;">11</p> <p>1 answer?</p> <p>2 A. Art Silva was the operations manager.</p> <p>3 Q. S-i-l-v-a?</p> <p>4 A. Uh-huh.</p> <p>5 Q. Yes?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. So, at the time -- I'm sorry. Could</p> <p>8 you explain that to me one more time, please?</p> <p>9 A. At the time, the ops manager was overseeing</p> <p>10 the Canyon branch, reporting directly to the district</p> <p>11 manager, Carlos Ortegon.</p> <p>12 Q. So, was there an official branch manager at</p> <p>13 the time?</p> <p>14 A. Not to my knowledge.</p> <p>15 Q. Why not?</p> <p>16 A. That branch was in transition, and the D.M.</p> <p>17 was overseeing the operations because Art was in</p> <p>18 place.</p> <p>19 Q. Art was in place?</p> <p>20 A. (Nods head)</p> <p>21 Q. Meaning, Mr. Silva?</p> <p>22 A. Yes. Correct.</p> <p>23 Q. When you say it "was in transition," what do</p> <p>24 you mean by that?</p> <p>25 A. That -- that branch was in transition to</p>	<p style="text-align: right;">13</p> <p>1 A. Pumps is a division within United Rentals now</p> <p>2 called fluid solutions.</p> <p>3 Q. Okay. Could you just --</p> <p>4 A. They.</p> <p>5 Q. -- articulate what that is, please?</p> <p>6 A. They provide different compressors and pumps</p> <p>7 to different customer base to transfer liquid to and</p> <p>8 from.</p> <p>9 Q. Do you have a counterpart safety director for</p> <p>10 the pumps division?</p> <p>11 A. Yes, I do.</p> <p>12 Q. Who is that?</p> <p>13 A. That would be Cheryl Wisenbaker.</p> <p>14 Q. Where is she based?</p> <p>15 A. She is based in Beaumont, Texas.</p> <p>16 Q. How do you spell her last name?</p> <p>17 A. I believe it's W-i-s-e-n-b-a-k-e-r.</p> <p>18 Q. And she has responsibilities across the nation</p> <p>19 like you do?</p> <p>20 A. Yes, she does.</p> <p>21 Q. Was she the nationwide pumps division safety</p> <p>22 director as of 2017?</p> <p>23 A. Yes, she was.</p> <p>24 Q. Do you have to interact with her on a</p> <p>25 day-in/day-out basis?</p>

<p style="text-align: right;">14</p> <p>1 A. Sometimes.</p> <p>2 Q. Could you explain the circumstances under</p> <p>3 which you sometimes have to interact with her on a</p> <p>4 day-in/day-out basis?</p> <p>5 A. Different initiatives that are taking place</p> <p>6 where we have a co-located branch, we strategize to</p> <p>7 complete them together as -- as one.</p> <p>8 Q. At the time of this incident, would Mr. --</p> <p>9 strike. New question.</p> <p>10 At the time of this incident, who was</p> <p>11 Mr. Ovalle's supervisor at the Canyon location?</p> <p>12 A. Art Silva.</p> <p>13 Q. Would you consider yourself to be a supervisor</p> <p>14 of Mr. Silva?</p> <p>15 A. No.</p> <p>16 Q. Who is Mr. Silva's direct report?</p> <p>17 A. Carlos Ortegon.</p> <p>18 Q. Who was Mr. -- Ortegon?</p> <p>19 A. (Nods head)</p> <p>20 Q. Who was his direct report?</p> <p>21 A. Vice-president, David Scott, at the time.</p> <p>22 Q. What was Mr. Scott's job title?</p> <p>23 A. Vice-president.</p> <p>24 Q. Was it a vice-president of a certain division</p> <p>25 or --</p>	<p style="text-align: right;">16</p> <p>1 A. Correct.</p> <p>2 Q. Where did Mr. Ortegon work?</p> <p>3 A. Mr. Ortegon was based out of Houston, Texas.</p> <p>4 Q. All right. And Mr. Ortegon reported to</p> <p>5 Mr. Scott?</p> <p>6 A. Correct.</p> <p>7 Q. Where did Mr. Scott work?</p> <p>8 A. Mr. Scott resides in Atlanta, Georgia.</p> <p>9 Q. And Mr. Scott reported to Mr. McDonald?</p> <p>10 A. Correct.</p> <p>11 Q. Where did Mr. McDonald work?</p> <p>12 A. Mr. McDonald worked at the corporate office in</p> <p>13 Stamford, Connecticut.</p> <p>14 Q. You had supervisory responsibilities over</p> <p>15 Mr. Silva insofar as they related to safety, correct?</p> <p>16 A. Yes.</p> <p>17 Q. You also had supervisory responsibilities</p> <p>18 insofar as they related to safety over Mr. Ortegon,</p> <p>19 right?</p> <p>20 A. Yes.</p> <p>21 Q. And Mr. Silva and Mr. Ortegon were sort of</p> <p>22 working in tandem to fill the gap that was left by not</p> <p>23 having a branch manager at the Canyon location, true?</p> <p>24 A. True.</p> <p>25 Q. And in -- in -- under normal circumstances,</p>
<p style="text-align: right;">15</p> <p>1 A. Vice-president of power/HVAC division.</p> <p>2 Q. Who is Mr. Scott's direct report?</p> <p>3 A. That would be, at the time, Paul McDonald.</p> <p>4 Q. What was his job title?</p> <p>5 A. Senior vice-president over specialties.</p> <p>6 Q. Specialties?</p> <p>7 A. Yes.</p> <p>8 Q. Do you know who Mr. McDonald's direct report</p> <p>9 was?</p> <p>10 A. Mr. McDonald would report, I believe at the</p> <p>11 time, to Matt Flannery.</p> <p>12 Q. What was his job title?</p> <p>13 A. C.O.O. of United Rentals.</p> <p>14 Q. Did any of these employees we just</p> <p>15 mentioned -- Mr. Silva, Mr. Ortegon, Mr. Scott,</p> <p>16 Mr. McDonald -- did they have any direct reporting</p> <p>17 responsibilities to you?</p> <p>18 A. Can you repeat the question?</p> <p>19 Q. Sure. I'm trying to get a sense of the org --</p> <p>20 the org chart, so to speak; and it looks like</p> <p>21 Mr. Silva was the highest ranking United Rentals</p> <p>22 employee at the Canyon facility -- is that fair -- at</p> <p>23 the time of the incident?</p> <p>24 A. Correct.</p> <p>25 Q. He reported to Mr. Ortegon, true?</p>	<p style="text-align: right;">17</p> <p>1 you would have been supervising a -- a single person,</p> <p>2 a branch manager, right?</p> <p>3 A. Repeat the question.</p> <p>4 Q. Sure. If there had been a branch manager at</p> <p>5 the Canyon location, that's the person to whom you</p> <p>6 would have direct supervisory authority as it related</p> <p>7 to safety, true?</p> <p>8 A. Not necessarily. I would communicate with the</p> <p>9 district manager, which would then funnel to the</p> <p>10 branch manager.</p> <p>11 Q. Okay. So, when you -- when you mentioned</p> <p>12 district manager as it relates to Mr. Ortegon, which</p> <p>13 geographic district does that cover?</p> <p>14 A. That covers, at the time, Texas.</p> <p>15 Q. So, Texas is big enough to gets its own</p> <p>16 district, right?</p> <p>17 A. Correct.</p> <p>18 Q. All right. Who do you report to?</p> <p>19 A. Josh Flores, vice-president of tool solutions</p> <p>20 for United Rentals.</p> <p>21 Q. Where does Mr. Flores work?</p> <p>22 A. Mr. Flores resides in Houston, Texas.</p> <p>23 Q. Do y'all work at the same office or location?</p> <p>24 A. Yes.</p> <p>25 Q. Where is that?</p>

<p style="text-align: right;">18</p> <p>1 A. 8787 Highway 225, La Porte, Texas.</p> <p>2 Q. La Porte?</p> <p>3 A. Yes.</p> <p>4 Q. Does Mr. Silva still work with the company?</p> <p>5 A. Yes.</p> <p>6 Q. What's his current title?</p> <p>7 A. I am not sure.</p> <p>8 Q. When's the last time you've spoken to</p> <p>9 Mr. Silva?</p> <p>10 A. Don't recall. Can't remember.</p> <p>11 Q. Has it been more than a year?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. What about Mr. Ortegon, what's his</p> <p>14 current job title?</p> <p>15 A. Mr. Ortegon is no longer with the company.</p> <p>16 Q. Do you know where he is?</p> <p>17 A. I do not.</p> <p>18 Q. When's the last time you spoke with him?</p> <p>19 A. Sometime last year before he left.</p> <p>20 Q. Is it common for United Rentals' facilities</p> <p>21 across America to have components of both the tools</p> <p>22 division and what was formerly known as the pumps</p> <p>23 division?</p> <p>24 A. It's not common, but it does occur.</p> <p>25 Q. Okay. Is it more common for there to be a</p>	<p style="text-align: right;">20</p> <p>1 divisions within United Rentals in 2017 were power,</p> <p>2 tools and pumps?</p> <p>3 A. Correct.</p> <p>4 Q. All right. Why were you overseeing safety at</p> <p>5 both tools and power back in 2017?</p> <p>6 A. It was a transition period while they were</p> <p>7 hiring a director to oversee the power division.</p> <p>8 Q. Okay. How long had you been overseeing safety</p> <p>9 in both divisions as of 2017 and since then?</p> <p>10 A. I do not recall.</p> <p>11 Q. Do you have an estimate?</p> <p>12 A. Maybe six, seven months.</p> <p>13 Q. Did they eventually find someone to manage</p> <p>14 safety over the power division?</p> <p>15 A. Correct.</p> <p>16 Q. When did that happen?</p> <p>17 A. That happened sometime in 2017. Not sure.</p> <p>18 Q. And as of today, are there still three</p> <p>19 distinct safety directors for each division --</p> <p>20 division?</p> <p>21 A. Correct.</p> <p>22 Q. Is there a company-wide safety director?</p> <p>23 A. Yes.</p> <p>24 Q. Who is that?</p> <p>25 A. Teresa Kee now.</p>
<p style="text-align: right;">19</p> <p>1 dedicated facility to one versus the other?</p> <p>2 A. Depending on the market.</p> <p>3 Q. Okay. Was it common to have facilities that</p> <p>4 had both divisions in them in Texas in 2017?</p> <p>5 A. It was not -- it's not common but does occur.</p> <p>6 Q. Okay. Other than the Canyon facility, can you</p> <p>7 think of any other facilities in Texas in 2017 that</p> <p>8 had both divisions operating out of them?</p> <p>9 A. Not off the top of my head.</p> <p>10 Q. Does Amarillo have a facility?</p> <p>11 A. I do not know.</p> <p>12 Q. Okay. Is the Canyon facility still operating?</p> <p>13 A. I am not sure. I am no longer the director</p> <p>14 for power/HVAC.</p> <p>15 Q. But I thought you said that you've been the</p> <p>16 supervisor -- or excuse me -- the safety director for</p> <p>17 tools region since 2013, right?</p> <p>18 A. Correct.</p> <p>19 Q. What does power/HVAC have to do with that?</p> <p>20 A. Mr. Ortegon and Mr. Art work for the</p> <p>21 power/HVAC division of United Rentals. I work for</p> <p>22 tool solutions at United Rentals.</p> <p>23 Q. Okay.</p> <p>24 A. At the time, I was overseeing power and tools.</p> <p>25 Q. Is it fair of me to say that the three</p>	<p style="text-align: right;">21</p> <p>1 Q. Could you spell the last name?</p> <p>2 A. K-e-e. That's it.</p> <p>3 Q. Okay. Where is she based?</p> <p>4 A. She is based in Chicago, Illinois.</p> <p>5 Q. Do you have to report to her?</p> <p>6 A. No.</p> <p>7 Q. Why not?</p> <p>8 A. I report to the vice-president of the region.</p> <p>9 Q. And then he reports to her?</p> <p>10 A. No.</p> <p>11 Q. Could you just explain how she fits into the</p> <p>12 org chart with respect to safety reporting</p> <p>13 requirements of three -- the three divisions?</p> <p>14 A. Our -- a director reports to the regional</p> <p>15 vice-president, and we have a dotted line to corporate</p> <p>16 safety.</p> <p>17 Q. What do you mean by "dotted line"?</p> <p>18 A. They funnel any corporate initiatives,</p> <p>19 strategies to the directors to execute at the region</p> <p>20 level.</p> <p>21 Q. So, if we were going to visualize this on an</p> <p>22 org chart, the company-wide safety director would be</p> <p>23 kind of parallel to you?</p> <p>24 A. No, because they are a corporate employee. We</p> <p>25 are regional employees.</p>

22

1 Q. Okay. Could you explain the difference?
2 A. The difference is that we're -- we oversee a
3 line of business; where they oversee the company as a
4 whole.
5 Q. Okay. Do you have to follow anything that
6 Ms. Kee decides to implement at the company when it
7 comes to safety?
8 A. Yes, we do.
9 Q. Okay. Is she responsible for developing and
10 implementing the safety policies?
11 A. Her team is.
12 Q. Is it also based in Chicago?
13 A. I'm not sure.
14 Q. Who would be on her team?
15 A. I believe there's a safety manager under her
16 and two other safety professionals that I -- I'm not
17 sure of their title.
18 Q. Do you ever have to interact with her or any
19 of these people on a regular basis?
20 A. Yes, to some extent. The manager and Teresa,
21 I interact regularly. The other two persons are
22 fairly new to the group.
23 Q. So, Ms. Kee, the company-wide safety director,
24 and her team write the safety policies, right?
25 A. Yes.

23

1 Q. And they communicate those safety policies to
2 you, as a division safety director, right?
3 A. Correct.
4 Q. And then you are responsible for implementing
5 them on a regional level or division level, I should
6 say, right?
7 A. Correct.
8 Q. And then the branch managers are responsible
9 for implementing them on a branch level, right?
10 A. Correct.
11 Q. And you keep track of the safety records of
12 each branch, correct?
13 A. No.
14 Q. Who does that?
15 A. The branch manager, the ops manager or the
16 service manager --
17 Q. Okay.
18 A. -- depending on who you report to at the
19 branch.
20 Q. Do they report these metrics to you?
21 A. Can you explain the question?
22 Q. Sure. I think I read in the documents we got
23 Friday that there's a incident reporting system of
24 incidents, near misses, things like that; and numbers
25 are kept so you can track the safety of each branch.

24

1 Does that sound familiar?
2 A. Yes.
3 Q. And I think you're saying that the branch
4 managers on sort of the boots-on-the-ground level are
5 responsible for keeping those metrics. In other
6 words, if somebody makes a incident report, they're
7 supposed to notate that in the database, right?
8 A. Not necessarily.
9 Q. Okay.
10 A. It is every employee's responsibility to log
11 in the near misses and report. Every employee has
12 access to that system.
13 Q. Right. But the branch manager certainly would
14 be responsible for notating an incident if they became
15 aware of one, true?
16 A. No. The branch manager would, at that point,
17 instruct the employee who saw whatever he saw to input
18 in the system through his proprietary log-in in the
19 system.
20 Q. Who is making sure the branch manager's doing
21 that?
22 A. We review metrics on a biweekly basis to
23 ensure that there's activity in the system.
24 Q. Who is "we"?
25 A. It falls between the district manager, myself

25

1 to ensure that there's activity in the system.
2 Q. Okay. So, managers above the branch manager
3 are reviewing the branch manager's enforcement of the
4 incident reporting policies, right?
5 A. Correct.
6 Q. Okay. And do you know what leading and
7 lagging indicators are?
8 A. Yes.
9 Q. What are those?
10 A. A leading indicator is something that shows --
11 gives you an idea of what could occur, right? It
12 paints you a picture. Lagging indicator is after the
13 fact.
14 Q. And these are safety metrics that are kept in
15 the industry to be able to make a company safer,
16 right?
17 A. It's a tool that different companies use.
18 Q. And the tool is designed to make the company
19 safer, right?
20 A. The tool is made to raise awareness of the
21 conditions of certain behaviors, certain trends. It's
22 to -- more to raise awareness.
23 Q. Raise awareness about safety?
24 A. Correct.
25 Q. In order to make the company safer?

<p style="text-align: right;">26</p> <p>1 A. Not necessarily. It's more about -- it's an 2 educational tool for the employee. 3 Q. Why would you want to raise awareness about 4 safety if you're not aiming to make the company safer? 5 A. Can you repeat the question again? 6 Q. Sure. Why would you want to raise awareness 7 about safety using these leading and lagging 8 indicators if you're not trying to increase safety at 9 the company? 10 MR. WRIGHT: Objection, form. 11 Q. (BY MR. HAYNES) You can answer. 12 A. I don't think I'm understanding the question. 13 Q. I'll just ask it again. Why would you be 14 keeping this leading and lagging indicator data about 15 safety to raise awareness about safety at the company 16 if you're not trying to increase safety at the 17 company? 18 MR. WRIGHT: Objection, form. 19 Q. (BY MR. HAYNES) You can answer. 20 A. We are trying to, one, raise the awareness to 21 ensure that the employees are aware and they 22 understand the importance of hazard recognition and so 23 they understand to be able to have the opportunity to 24 either eliminate or mitigate certain hazards 25 associated with their task.</p>	<p style="text-align: right;">28</p> <p>1 school graduate. I have an associate's degree from 2 Lamar University in process operations. 3 Q. Where did you go to high school? 4 A. Thomas Jefferson in Port Arthur, Texas. 5 Q. And you've been at United Rentals for ten 6 years? 7 A. Correct. 8 Q. What was your first job at United Rentals? 9 A. I was a safety manager for a district in 10 Texas. 11 Q. Which district in Texas? 12 A. I believe at the time it was called Gulf 13 South. 14 Q. Did that encompass Beaumont, Port Arthur and 15 Orange? 16 A. Correct. 17 Q. The Golden Triangle? 18 A. Yes, sir. 19 Q. Do you have any safety certifications? 20 A. Some of my certifications have lapsed. I was 21 a 40-hour trainer. I was a -- I was trained in fire 22 and rescue through ExxonMobil. That's lapsed. 23 Q. ExxonMobil Baytown? 24 A. ExxonMobil Baytown and ExxonMobil Beaumont. 25 Q. Did you used to work there?</p>
<p style="text-align: right;">27</p> <p>1 Q. And that promotes safety of the company, 2 doesn't it? 3 A. To some extent. 4 Q. To what extent? 5 A. The goal of the company is to ensure that the 6 employee goes home the same way he came to work. 7 Q. To what extent does raising awareness about 8 safety of the company promote safety of the company? 9 A. Say that one more time. 10 Q. Yeah. I'm just trying to understand your 11 answer. I said -- I asked you if raising safety 12 awareness at the company promotes safety. You said 13 "to some extent." So, I'm trying to understand to 14 what extent. So, to what extent does raising safety 15 awareness at the company promote safety of the 16 company? 17 A. The company -- the attitude we take is we -- 18 we raise awareness to ensure that the employee has 19 the -- the opportunity to recognize, eliminate, 20 mitigate the hazard. So, we train the employee to 21 execute that, okay? Now, the byproduct of that is a 22 safer environment, absolutely. 23 Q. Could you give the jury an overview of your 24 educational background, please? 25 A. I've been in the industry for 20 years, high</p>	<p style="text-align: right;">29</p> <p>1 A. Yes. 2 Q. What did you do out there? 3 A. I was -- in Beaumont I was a safety manager 4 for a construction firm inside Beaumont Exxon, and I 5 left there and was working for an engineering firm 6 based out of Baytown as a safety manager. 7 Q. What kind of construction did y'all do in the 8 Exxon refineries or the plants? 9 A. We executed running, maintain maintenance, 10 day-to-day operations. 11 Q. What -- what was the name of the company? 12 A. Triple S Industrial. 13 Q. Is it based out of Beaumont? 14 A. It is based out of Lumberton, Texas. 15 Q. That's Beaumont area, right? 16 A. Correct. 17 Q. Do you currently hold any safety 18 certifications? 19 A. No, I do not. 20 Q. Are you certified in OSHA? 21 A. Not currently. 22 Q. Do you agree that OSHA applies to United 23 facilities across the United States? 24 MR. WRIGHT: Objection, form. 25 A. Yes.</p>

<p style="text-align: right;">30</p> <p>1 Q. (BY MR. HAYNES) That includes the Canyon 2 facility on the day of this incident, right? 3 A. Yes. 4 Q. Do you know if this incident was reported to 5 OSHA? 6 A. Yes. 7 Q. Was it? 8 A. Yes. 9 Q. It was reported to OSHA? 10 A. Yes. 11 Q. Do you know who reported it to OSHA? 12 A. I'm not sure. 13 Q. Do you know when it was reported to OSHA? 14 A. I believe it was reported after Mr. Ovalle -- 15 we're required to report to OSHA once the employee has 16 been -- has stayed a day in the hospital. We have to 17 report to OSHA. 18 Q. Based upon your knowledge and experience at 19 the company, who at the company at that time would 20 have been responsible for notifying OSHA? 21 A. I believe it would have been somebody in the 22 claims department. 23 Q. What is the claims department? 24 A. It's a corporate entity with United Rentals 25 that handles injury claims.</p>	<p style="text-align: right;">32</p> <p>1 investigate personal injury claims on behalf of United 2 Rentals? 3 A. Not to my knowledge. 4 Q. Well, you said they handled P.I. claims, 5 right? 6 A. Correct. They -- 7 Q. What -- 8 A. They process the claim. 9 Q. Okay. Who investigates the claims? 10 A. I'm not sure. 11 Q. Does safety investigate personal injury 12 claims? 13 A. I'm not sure I'm understanding the question. 14 Q. Let me ask it this way. Was the incident with 15 Mr. Ovalle investigated by United Rentals? 16 A. A report was filled about the -- of what 17 occurred. So, yes. 18 Q. What do you mean by "a report was filled"? 19 A. So, we gathered the facts of what occurred; 20 and we submitted the -- the report in the system. 21 Q. Who is "we"? 22 A. It was collaboration between myself and the 23 ops manager. 24 Q. What is "the system"? 25 A. United Rentals Safety System.</p>
<p style="text-align: right;">31</p> <p>1 Q. How do you know this was reported to OSHA? 2 A. The protocol is that when an employee spends 3 the night at a hospital, once he's admitted, we -- we 4 report it to OSHA. 5 Q. Right. But how do you specifically know that 6 this incident was reported? 7 A. Because of protocol. 8 Q. Do you have specific personal knowledge that 9 this incident was reported to OSHA? 10 A. No, I do not. 11 Q. You're assuming it was based on what you would 12 expect the protocol to be? 13 A. Correct. 14 Q. Is it protocol for the claims department to 15 report incidents to OSHA? 16 A. Yes, unless they delegate. 17 Q. Do you have to interact with the claims 18 department as part of your job? 19 A. Sometimes. 20 Q. Could you just give us some examples of under 21 which circumstances you would? 22 A. I interact with the claims department when 23 they need different information of the employee, 24 location, time. 25 Q. All right. So, the claims departments</p>	<p style="text-align: right;">33</p> <p>1 Q. Is that a company-wide database? 2 A. Correct. 3 Q. And you can access it from your computer, I 4 assume? 5 A. Correct. 6 Q. Can people up in Canyon access it? 7 A. Yes. 8 Q. What did United Rentals do to gather the facts 9 of what occurred? 10 A. We interviewed multiple employees, talked to 11 Mr. Ovalle; and that was the extent of the 12 investigation. 13 Q. When did this investigation commence? 14 A. The report was filled roughly about a week 15 after the incident occurred. 16 Q. Who did you interview? 17 A. Art Silva, the ops manager; Mr. Ovalle; and a 18 technician from the pump site. I'm not sure of his 19 name. 20 Q. Who conducted the interviews? 21 A. Myself. 22 Q. Was it in person or over the phone? 23 A. Over the phone. 24 Q. Did you take notes of what you -- what was 25 said during the interviews?</p>

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1 A. Yes, and it was posted on the report. The
2 notes allowed me to fill out the report accordingly.
3 Q. When you took the notes, how were you taking
4 them?
5 A. Paper and pen.
6 Q. What happened to the paper?
7 A. Once I used that pad to guide me to fill out
8 the incident report, that was it.
9 Q. You discarded the paper?
10 A. I don't recall.
11 Q. Do you know where it is right now?
12 A. No.
13 Q. Was it accepted protocol at the time to take
14 written notes of employee interviews and then discard
15 them as part of an investigation United Rentals was
16 conducting?
17 A. I was taking notes and ensuring that I
18 captured the notes to input into the system.
19 Q. Was it part of normal protocol at United
20 Rentals at the time to take handwritten notes of
21 employee interviews as part of an incident
22 investigation and then discard them?
23 A. I am not sure.
24 Q. Were you ever trained or educated about what
25 the protocol was?

35

1 A. I was trained on how to fill out the report in
2 the system, yes.
3 Q. What did they tell you to do?
4 A. They walked us through the process. There was
5 a third party that manages the system that trained all
6 the safety directors on how to use the system.
7 Q. Who was the third party?
8 A. I believe the name of the company is A.I.C.
9 Q. Do you know what that stands for?
10 A. I do not.
11 Q. Do you know where they're based?
12 A. I believe in California.
13 Q. Where did the training take place?
14 A. In Houston and another one in Dallas.
15 Q. And for an incident like this, would the
16 division safety director be responsible for filling
17 out this report?
18 A. Not all the time.
19 Q. Okay. But you did in this case, right?
20 A. Correct.
21 Q. Why?
22 A. Because at the time, there was no branch
23 manager at that location.
24 Q. Assuming there would have been a branch
25 manager, would he or she have been expected to fill

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1 out this kind of report?
2 A. Correct.
3 Q. All right. Why didn't the regional director
4 do it?
5 A. I don't -- I'm not following your question.
6 Q. I'm sorry. There's just been a lot of names
7 today so far. Mr. Ortegon, he's the district manager,
8 true?
9 A. Correct.
10 Q. And he was at the time of this incident,
11 right?
12 A. Correct.
13 Q. Why would he not be responsible for filling
14 out the incident report?
15 A. Typically it's outlined to the branch manager.
16 Q. Okay. Why wouldn't Mr. Silva have filled it
17 out at this time?
18 A. Mr. Silva at the time, I believe, was not
19 present.
20 Q. Present to witness the incident or present to
21 fill out the report?
22 A. He was not at the Canyon location at the time.
23 Q. Meaning, he wasn't working at the Canyon
24 facility, just as a general proposition?
25 A. He was, I believe, in either a meeting or

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1 training for United Rentals but not at the Canyon
2 facility.
3 Q. Okay. How long was this report? How many
4 pages?
5 A. There's a template in the -- in the system
6 that you go through, and it's -- there's about four or
7 five tabs that you fill out --
8 Q. Okay.
9 A. -- that ask specific questions.
10 Q. Were any photographs taken as a result of this
11 investigation or through this investigation?
12 A. Not to my knowledge.
13 Q. Why not?
14 A. I'm not sure.
15 Q. Is it part of the ordinary course of business
16 for United Rentals to take photographs pursuant to an
17 investigation of an injury-causing incident that was
18 eventually reported to OSHA?
19 A. It's to the discretion of the person that's
20 doing the investigation.
21 Q. Is that what the policy is of the company?
22 A. If there's a policy, I'm not aware of it.
23 Q. You're not aware of what the incident
24 reporting policy is for United Rentals?
25 A. Yes, but it doesn't specify picture taking.

<p style="text-align: right;">38</p> <p>1 Q. Are you sure about that?</p> <p>2 A. To my knowledge.</p> <p>3 Q. Do you know if OSHA did a site visit?</p> <p>4 A. No, they did not.</p> <p>5 Q. How do you know that?</p> <p>6 A. They would have notified either myself,</p> <p>7 corporate or the pump safety director if they did.</p> <p>8 Q. Do you know if United Rentals conducted what's</p> <p>9 known as a self-reporting exercise with OSHA with</p> <p>10 respect to this incident?</p> <p>11 A. No, I do not.</p> <p>12 Q. Do you know what a self-reporting exercise is</p> <p>13 for OSHA?</p> <p>14 A. No, I do not.</p> <p>15 Q. What did you do to get ready for your</p> <p>16 deposition today?</p> <p>17 A. I talked to my lawyer, the lawyer.</p> <p>18 Q. Anything else?</p> <p>19 A. I looked over the incident, some documents.</p> <p>20 Q. When did you meet with the lawyer?</p> <p>21 A. I don't recall. It was sometime last month, I</p> <p>22 believe, or this month. I'm not sure.</p> <p>23 Q. Was it Friday?</p> <p>24 A. No.</p> <p>25 Q. Was it yesterday?</p>	<p style="text-align: right;">40</p> <p>1 beginning of a shift typically, and there's a series</p> <p>2 of different topics that are covered on a daily basis.</p> <p>3 Q. (BY MR. HAYNES) Okay. Other than training</p> <p>4 documents, what else did you look at?</p> <p>5 A. I believe that's it. Some of the questions, a</p> <p>6 document that looks similar to this, whatever that's</p> <p>7 called.</p> <p>8 Q. Interrogatories?</p> <p>9 A. I'm not sure what they're called.</p> <p>10 Q. Okay. And you looked at -- did you look at</p> <p>11 any photographs?</p> <p>12 A. Yes, it was part of the documents that were in</p> <p>13 there.</p> <p>14 Q. Which photographs?</p> <p>15 A. There was a couple of pictures of the bay that</p> <p>16 we looked at. There's a picture of Ovalle with Art,</p> <p>17 and I believe that's it.</p> <p>18 Q. "Ovalle with Art," what do you mean by that?</p> <p>19 A. There was a picture that -- that I saw that</p> <p>20 was in the -- in the pile of paperwork that was given</p> <p>21 to me.</p> <p>22 Q. I understand. What I'm saying is, what do you</p> <p>23 mean by "Ovalle with Art"? Could you just define what</p> <p>24 that means?</p> <p>25 A. Yes. There was a picture that was with</p>
<p style="text-align: right;">39</p> <p>1 A. No.</p> <p>2 Q. Was it last week?</p> <p>3 A. Two weeks ago maybe or the beginning of the</p> <p>4 month.</p> <p>5 Q. What kind of documents did you look at?</p> <p>6 A. I looked at documents that were provided by --</p> <p>7 by the lawyer. I'm not sure what to call them. Just</p> <p>8 took a look at what -- what they gave me and kind of</p> <p>9 had an overview.</p> <p>10 Q. Did you look at any other documents that were</p> <p>11 generated by United Rentals?</p> <p>12 A. Yes.</p> <p>13 Q. Which ones?</p> <p>14 A. Some of the training documents.</p> <p>15 Q. Could you just be more specific about what</p> <p>16 they were?</p> <p>17 A. Basically there were some training documents</p> <p>18 that took place or that take place on a monthly basis</p> <p>19 for all employees covering different topics.</p> <p>20 Q. Toolbox talks?</p> <p>21 A. No. These are monthly trainings. The toolbox</p> <p>22 talks are completely different.</p> <p>23 Q. What are those?</p> <p>24 MR. WRIGHT: Objection to form.</p> <p>25 A. The morning huddles take place at the</p>	<p style="text-align: right;">41</p> <p>1 Mr. Ovalle and Art.</p> <p>2 MR. WRIGHT: Silva.</p> <p>3 A. Silva.</p> <p>4 Q. (BY MR. HAYNES) What were they doing?</p> <p>5 A. They just took a picture while Mr. Ovalle was</p> <p>6 in the hospital.</p> <p>7 Q. Okay. Anything else you looked at?</p> <p>8 A. No. I believe that's it.</p> <p>9 Q. Do you have to use e-mail as part of your job?</p> <p>10 A. Yes.</p> <p>11 Q. Do you have like a United Rentals e-mail</p> <p>12 address?</p> <p>13 A. Yes.</p> <p>14 Q. That ends in ur.com?</p> <p>15 A. Yes.</p> <p>16 Q. Did you ever send or receive any e-mails about</p> <p>17 this incident?</p> <p>18 A. Yes, I'm sure.</p> <p>19 Q. Do people at the facility, the Canyon</p> <p>20 facility, do they have e-mail addresses --</p> <p>21 A. Yes.</p> <p>22 Q. -- for United Rentals?</p> <p>23 Did they have to send and receive</p> <p>24 e-mails as part of their jobs?</p> <p>25 A. Yes. Some of them, it's not part of their</p>

<p style="text-align: right;">42</p> <p>1 job; but sometime -- it's the way they communicate</p> <p>2 from either branch to branch or --</p> <p>3 Q. Uh-huh.</p> <p>4 A. -- whatnot.</p> <p>5 Q. Okay. Does the company send out e-mails like</p> <p>6 safety bulletins and things like that?</p> <p>7 A. Yes.</p> <p>8 Q. How often does that happen?</p> <p>9 A. That happens once a week. They sent out the</p> <p>10 morning huddles for that week.</p> <p>11 Q. So, a morning huddle is a safety-oriented</p> <p>12 document generated by United Rentals that it sends out</p> <p>13 to its employees every week, right?</p> <p>14 A. Correct.</p> <p>15 Q. And it covers various safety topics, true?</p> <p>16 A. Correct.</p> <p>17 Q. Does United Rentals have an H.S.E. manual?</p> <p>18 A. Yes, they do.</p> <p>19 Q. Is that something that the employees are</p> <p>20 expected to know and follow?</p> <p>21 A. Yes. And it's available to them in the</p> <p>22 system.</p> <p>23 Q. Are they trained on it?</p> <p>24 A. Yes.</p> <p>25 Q. When do they get training on it?</p>	<p style="text-align: right;">44</p> <p>1 adherence to those safety policies has to be monitored</p> <p>2 by United Rentals, right?</p> <p>3 A. Correct.</p> <p>4 Q. Will you please take a look at Exhibit 1.</p> <p>5 It's right there in front of you.</p> <p>6 A. (Complies)</p> <p>7 Q. Have you seen this before? It's got a couple</p> <p>8 pages. You can look through it.</p> <p>9 A. Yes.</p> <p>10 Q. So, this is a true and accurate copy of the</p> <p>11 Notice of Deposition we've served in this case; and</p> <p>12 it's got a series of topics on the last page. Do you</p> <p>13 see that?</p> <p>14 A. Yes.</p> <p>15 Q. All right. And technically this is a</p> <p>16 deposition of United Rentals as a company and the way</p> <p>17 that works is we send a notice with topics and the</p> <p>18 company is here being deposed today on those topics</p> <p>19 through an individual. Do you understand that?</p> <p>20 A. Yes.</p> <p>21 Q. And you are that individual, right?</p> <p>22 A. Correct.</p> <p>23 Q. So, you're here speaking on behalf of the</p> <p>24 company, right?</p> <p>25 A. Understood.</p>
<p style="text-align: right;">43</p> <p>1 A. As part of their orientation, they're</p> <p>2 covered -- the topics are covered during their</p> <p>3 orientation, and they have access to the policies and</p> <p>4 procedures if they have any questions.</p> <p>5 Q. Okay. And the branch managers are expected to</p> <p>6 enforce those policies on the branch level, right?</p> <p>7 A. Correct.</p> <p>8 Q. And they have to supervise their employees to</p> <p>9 make sure they are following the policies, don't they?</p> <p>10 A. Correct.</p> <p>11 Q. And United Rentals has an obligation to</p> <p>12 provide a safe workplace, doesn't it?</p> <p>13 A. Yes.</p> <p>14 Q. And it does that in various ways, one of which</p> <p>15 is having sufficient policies that the employees</p> <p>16 understand, know and follow, right?</p> <p>17 A. Can you repeat the question?</p> <p>18 Q. Sure. One of the ways that United Rentals</p> <p>19 provides a safe workplace is by having safety policies</p> <p>20 that are sufficient and adequate, right?</p> <p>21 A. Correct.</p> <p>22 Q. And those safety policies have to be</p> <p>23 communicated to the employees, right?</p> <p>24 A. Correct.</p> <p>25 Q. And those safety policies have to be -- the</p>	<p style="text-align: right;">45</p> <p>1 Q. And this exhibit contains 11 discreet topics.</p> <p>2 Do you see that?</p> <p>3 A. Yes.</p> <p>4 Q. Are you prepared to talk about these topics?</p> <p>5 A. Yes.</p> <p>6 Q. Do you know of any topic on this list that you</p> <p>7 would not be able to discuss here today?</p> <p>8 A. Can I take a minute to overlook it?</p> <p>9 Q. Sure.</p> <p>10 A. I am not familiar with No. 5.</p> <p>11 Q. No. 5 is "The construction/installation and</p> <p>12 maintenance/repair history of the drain/sump outside</p> <p>13 the generator shop where the incident occurred,"</p> <p>14 right?</p> <p>15 A. Right.</p> <p>16 Q. Do you know anybody at the company that would</p> <p>17 know about that?</p> <p>18 A. Maybe our facilities group.</p> <p>19 Q. Okay. Is that another division?</p> <p>20 A. It's an entity within United Rentals that</p> <p>21 helps with the leases.</p> <p>22 Q. Okay. Who is in the facility -- I mean --</p> <p>23 strike. New question.</p> <p>24 Is there anybody in the facilities group</p> <p>25 that works in Houston?</p>

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1 A. I'm not sure where they work at.
2 Q. Do you ever have to interact with them?
3 A. Sometimes.
4 Q. Okay. Under what circumstances?
5 A. When we set up maybe a cold start, if there's
6 a certain issue with trying to get different equipment
7 in the area based on the size of the location, various
8 things; but they -- they're assigned a certain area,
9 and they're scattered all over the U.S.
10 Q. Wouldn't you expect somebody that worked at
11 the facility to have some idea about the maintenance
12 and repair history of that sump outside?
13 A. Can you repeat that?
14 Q. Sure. Wouldn't you expect somebody that
15 actually worked at the Canyon facility for United
16 Rentals to have some idea about the maintenance and
17 repair history of the sump?
18 MR. WRIGHT: Objection, form.
19 A. I'm not -- I wouldn't -- I'm not sure.
20 Q. (BY MR. HAYNES) I mean, how long had United
21 Rentals been at that Canyon facility? Do you know?
22 A. I am not sure how long they've been there.
23 Q. But you expect your employees at a particular
24 branch to have some knowledge of equipment on the
25 facility that would affect drainage and -- and -- and

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1 Q. What would you expect them to do?
2 A. I would expect them to have a conversation and
3 help either eliminate or mitigate a potential hazard.
4 Q. In fact, you expect the branch managers or
5 whoever's filling that particular role at the time to
6 conduct ongoing hazard analysis of a facility, right?
7 A. As well as the employees, yes.
8 Q. Right. But it's certainly in -- I mean,
9 branch managers are employees of United Rentals, true?
10 A. Correct.
11 Q. I mean, you cannot completely pass off the
12 responsibility to maintain a safe workplace to the
13 lowest level employees, can you?
14 A. No. The employees' responsibility is to
15 assess their work area prior to then -- them engaging
16 in the task at hand.
17 Q. And you agree that it is up to management's
18 responsibility to ensure the employees are doing that,
19 right?
20 A. Correct.
21 Q. And it's management's responsibility to make
22 budgeting decisions or make more significant executive
23 decisions about changing the way a facility is
24 designed if a problem with that design is brought to
25 their attention, right?

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1 other items that would affect whether a floor was
2 slippery, right?
3 A. If there was an issue, yes.
4 Q. Okay. So, would that be something that you'd
5 expect Mr. Silva and Mr. Ortegón to be aware of?
6 A. Yes.
7 Q. Certainly if one of the employees was
8 complaining about a problem with the drainage, with
9 rainwater seeping inside the facility, that's
10 something that you would expect the branch managers or
11 whoever was filling that role at the time to take
12 seriously, right?
13 A. Yes.
14 Q. You would expect them to fill out an incident
15 report about that, right?
16 MR. WRIGHT: Objection to form.
17 A. The employee would fill out the near miss or
18 the stop work or the good catch in the system.
19 Q. (BY MR. HAYNES) Okay. Would you expect the
20 branch manager or whoever was filling that role to
21 have any responsibility for taking a complaint
22 seriously by an employee if there was a water seepage
23 problem inside the building from rainwater outside of
24 it?
25 A. If there was an issue, yes.

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1 A. Correct.
2 Q. A boots-on-the-ground employee, a technician,
3 for example, can't make the decision to modify a drain
4 or sump outside a building, right?
5 A. Correct.
6 Q. That's above that employee's head, true?
7 A. Correct.
8 Q. And you agree that rainwater seeping into a
9 United Rentals facility onto a painted floor can
10 create a hazard, right?
11 A. Potentially, yes.
12 Q. That can be dangerous, can't it?
13 A. Can you explain a little bit?
14 Q. Sure. Do you agree that rainwater seeping
15 into a United Rentals facility, where it has a painted
16 floor, can be dangerous?
17 A. Potentially, yes.
18 Q. Someone could slip on it and fall and hurt
19 themselves, right?
20 A. Correct.
21 Q. And that's something that United Rentals needs
22 to be aware of and to try to fix or mitigate against,
23 right?
24 A. Correct.
25 Q. Do you agree that United Rentals' No. 1

<p style="text-align: right;">50</p> <p>1 priority has to be safety?</p> <p>2 A. Safety is a value, not a priority. Priorities</p> <p>3 change.</p> <p>4 Q. Okay. Is United Rentals' top priority safety?</p> <p>5 A. Again, it's a value. It's not a priority.</p> <p>6 Priorities change. Safety doesn't.</p> <p>7 Q. So, safety is something so important that we</p> <p>8 can't even call it a priority. It's beyond a</p> <p>9 priority. It's a value, right?</p> <p>10 A. It's a value.</p> <p>11 Q. All right. Does that mean it's more important</p> <p>12 than a priority?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. And you should be proactive rather than</p> <p>15 reactive when it comes to safety at United Rentals,</p> <p>16 right?</p> <p>17 A. That is the goal, to be proactive, not</p> <p>18 reactive.</p> <p>19 Q. That's why you analyze leading indicators,</p> <p>20 right?</p> <p>21 A. Correct.</p> <p>22 Q. In fact, OSHA recommends that you evaluate</p> <p>23 leading indicators, doesn't it?</p> <p>24 A. Yes.</p> <p>25 Q. United Rentals also has a responsibility to</p>	<p style="text-align: right;">52</p> <p>1 Q. Right. And if you don't, that's like not even</p> <p>2 having a policy at all, right?</p> <p>3 A. The policies exist. They're there. They</p> <p>4 should be enforced.</p> <p>5 Q. Right. But they're useless if they're not</p> <p>6 enforced, right?</p> <p>7 A. Correct.</p> <p>8 Q. Part of United Rentals' obligation to provide</p> <p>9 a safe workplace is to take all reasonable measures to</p> <p>10 prevent slips and trips at their facilities, right?</p> <p>11 MR. WRIGHT: Objection, form.</p> <p>12 A. It's our job to ensure that we, again, try to</p> <p>13 eliminate or mitigate any potential hazard that</p> <p>14 exists.</p> <p>15 Q. (BY MR. HAYNES) Are slips and trips a</p> <p>16 potential hazard?</p> <p>17 A. Yes.</p> <p>18 Q. So, part of the company's obligation to</p> <p>19 provide a safe workplace is to take reasonable</p> <p>20 measures to prevent slips and trips, right?</p> <p>21 A. Correct.</p> <p>22 Q. They should provide slip protection or trip</p> <p>23 protection, right?</p> <p>24 A. Correct.</p> <p>25 Q. It also has to provide adequate lighting for</p>
<p style="text-align: right;">51</p> <p>1 provide its employees with the proper tools and</p> <p>2 equipment to do their job safely, correct?</p> <p>3 A. Correct.</p> <p>4 Q. United Rentals also has responsibility to</p> <p>5 provide its employees with tools and equipment that</p> <p>6 will help them do their job safely, if they have</p> <p>7 requested it, right?</p> <p>8 A. Correct.</p> <p>9 Q. United Rentals also has an obligation to take</p> <p>10 all safety complaints, safety issues, safety problems</p> <p>11 seriously that its employees bring to it, right?</p> <p>12 A. Correct.</p> <p>13 Q. And it does do that, doesn't it?</p> <p>14 A. Yes.</p> <p>15 Q. United Rentals also has a responsibility to</p> <p>16 train its employees on safety policies, right?</p> <p>17 A. Correct.</p> <p>18 Q. If United Rentals has safety policies that it</p> <p>19 does not enforce, that's like not having safety</p> <p>20 policies at all, correct?</p> <p>21 A. Repeat that again.</p> <p>22 Q. Sure. If United Rentals has safety policies</p> <p>23 that it doesn't enforce at all, that's like not even</p> <p>24 having safety policies, right?</p> <p>25 A. The policy should be enforced.</p>	<p style="text-align: right;">53</p> <p>1 its employees to work in, right?</p> <p>2 A. Correct.</p> <p>3 Q. Does United Rentals require its employees to</p> <p>4 conduct job safety analysis?</p> <p>5 A. Yes.</p> <p>6 Q. What is a job safety analysis?</p> <p>7 A. It's J.H.A. We also perform a 360 hazard</p> <p>8 awareness, which is a form of a mental J.H.A. prior to</p> <p>9 them starting their task.</p> <p>10 Q. You're saying "J.H.A.?"</p> <p>11 A. Uh-huh.</p> <p>12 Q. Yes?</p> <p>13 A. Yes.</p> <p>14 Q. Have you ever heard it referred to as J.S.A.?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. But at United Rentals, y'all refer to</p> <p>17 it as J.H.A.?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. And J. -- I'll call it J.H.A. J.H.A.</p> <p>20 is -- sometimes people use that term to describe the</p> <p>21 actual form you fill out, which is supposed to reflect</p> <p>22 you actually doing the J.H.A. Do you understand what</p> <p>23 I mean by that?</p> <p>24 A. Yes.</p> <p>25 Q. Does United Rentals require its employees to</p>

<p style="text-align: right;">54</p> <p>1 fill out the J.H.A. forms?</p> <p>2 A. No.</p> <p>3 Q. Why not?</p> <p>4 A. They are trained in identifying the hazards</p> <p>5 with the 360 process, which is a mental J.H.A. When</p> <p>6 the employee is dealing with a task that it's complex,</p> <p>7 a field -- a J.H.A. -- a field J.H.A. is filled out</p> <p>8 for that process.</p> <p>9 Q. So, the more complex the process at hand, the</p> <p>10 more of an obligation the employee has to fill out the</p> <p>11 J.H.A. form?</p> <p>12 A. They go through the steps, their work steps</p> <p>13 and list down the associated hazards.</p> <p>14 Q. If it's more complex?</p> <p>15 A. Correct.</p> <p>16 Q. But if it's more routine, they don't?</p> <p>17 A. They do a form of a J.H.A.; but they don't</p> <p>18 have to fill out the form, which is a 360 hazard</p> <p>19 awareness.</p> <p>20 Q. What is a 360 hazard awareness?</p> <p>21 A. 360 hazard awareness is a -- it's a last</p> <p>22 risk -- a last-minute risk assessment prior to the</p> <p>23 employees commencing their task. It's a form of a</p> <p>24 J.H. -- a mental J.H.A.</p> <p>25 Q. Okay. How does United Rentals track whether</p>	<p style="text-align: right;">56</p> <p>1 THE VIDEOGRAPHER: Off the record,</p> <p>2 11:13.</p> <p>3 (Karabanoff Exhibit No. 2 was marked)</p> <p>4 THE VIDEOGRAPHER: The time is 11:27,</p> <p>5 back on the record.</p> <p>6 Q. (BY MR. HAYNES) Ready to keep going?</p> <p>7 A. Yes.</p> <p>8 Q. All right. I hand you Exhibit 2. Do you</p> <p>9 recognize that?</p> <p>10 A. Yes.</p> <p>11 Q. What is that?</p> <p>12 A. This is part of our monthly training.</p> <p>13 Q. Okay. Is this a true and accurate copy of</p> <p>14 Monthly Training issued by United Rentals in January</p> <p>15 of 2017, true?</p> <p>16 A. Correct.</p> <p>17 Q. And the highlighted portions are mine, okay?</p> <p>18 I made the highlights, just for the record.</p> <p>19 So, if you look at the top right, it</p> <p>20 says, "Real Life Safety Monthly Training Toolbox,"</p> <p>21 true?</p> <p>22 A. True.</p> <p>23 Q. So, United Rentals does have a toolbox</p> <p>24 training that happens every month, right? Is that</p> <p>25 fair?</p>
<p style="text-align: right;">55</p> <p>1 or not its employees are conducting these mental</p> <p>2 J.H.A.s?</p> <p>3 A. We -- again, on our monthly and our daily</p> <p>4 huddles, it's covered. It's trained to our employees.</p> <p>5 It's part of the orientation. It's part of the</p> <p>6 process of you doing your job.</p> <p>7 Q. Any other ways?</p> <p>8 A. No.</p> <p>9 Q. Are the branch managers required to undergo</p> <p>10 periodic performance evaluations by United Rentals?</p> <p>11 A. Yes.</p> <p>12 Q. How often?</p> <p>13 A. Twice a year.</p> <p>14 Q. Who conducts those?</p> <p>15 A. Their direct report. Whoever they report</p> <p>16 directly to.</p> <p>17 Q. Are you --</p> <p>18 A. Typically it would be a district manager.</p> <p>19 Q. Do you have any responsibilities for these</p> <p>20 evaluations?</p> <p>21 A. No, I do not.</p> <p>22 Q. Do you ever become aware of them?</p> <p>23 A. No, I do not.</p> <p>24 MR. HAYNES: Take a rest room break?</p> <p>25 MR. WRIGHT: Please.</p>	<p style="text-align: right;">57</p> <p>1 A. The toolbox topics are provided on a daily</p> <p>2 basis.</p> <p>3 Q. All right. What about the monthly ones that</p> <p>4 this document's talking about?</p> <p>5 A. Yes, these are just topics that are covered</p> <p>6 within the document; but the actual toolbox, what they</p> <p>7 call toolbox --</p> <p>8 Q. Uh-huh.</p> <p>9 A. -- are our morning huddles that take place on</p> <p>10 a daily basis.</p> <p>11 Q. Okay. And when you refer to the toolbox, the</p> <p>12 huddle, are you talking about the actual event itself</p> <p>13 or is there paperwork that goes with it or is it both?</p> <p>14 A. Both.</p> <p>15 Q. Okay. So, every morning each facility is</p> <p>16 supposed to be filling out these toolbox huddle --</p> <p>17 A. Correct.</p> <p>18 Q. -- sessions? Okay.</p> <p>19 And that was true and applied to the</p> <p>20 Canyon facility in 2017?</p> <p>21 A. Correct.</p> <p>22 Q. All right. So, this says that "Safety is a</p> <p>23 Core Value" at United Rentals, right?</p> <p>24 A. Yes.</p> <p>25 Q. So, you agree that safety is a core value at</p>

<p style="text-align: right;">58</p> <p>1 United Rentals, right?</p> <p>2 A. Yes.</p> <p>3 Q. It says, "Making safety a part of everything</p> <p>4 we do is not a slogan at United Rentals. It's part of</p> <p>5 who we are, how we operate and what we believe in,"</p> <p>6 right?</p> <p>7 A. Right.</p> <p>8 Q. So, safety is not just a slogan at United</p> <p>9 Rentals, is it?</p> <p>10 A. No.</p> <p>11 Q. It's part of who United Rentals is and how you</p> <p>12 operate, true?</p> <p>13 A. True.</p> <p>14 Q. At United Rentals you emphasize watching out</p> <p>15 for the safety of others, right?</p> <p>16 A. True.</p> <p>17 Q. At United Rentals you emphasize and require</p> <p>18 people to take action for reporting and eliminating</p> <p>19 hazards, right?</p> <p>20 A. True.</p> <p>21 Q. And in the -- kind of the middle down the</p> <p>22 page, I highlighted a section in the paragraph; and</p> <p>23 I'm just going to read it and ask you some questions</p> <p>24 about it. It says, "Whether or not you are or your</p> <p>25 branch experienced an injury last year, no one is safe</p>	<p style="text-align: right;">60</p> <p>1 see that?</p> <p>2 A. Uh-huh, yes.</p> <p>3 Q. And at the bottom left, it's talking about</p> <p>4 poor housekeeping, right?</p> <p>5 A. Right.</p> <p>6 Q. Housekeeping basically means keeping your work</p> <p>7 area safe and clean, right?</p> <p>8 A. Right.</p> <p>9 Q. That would include making sure that there's no</p> <p>10 substances on the floor that could create a slip or a</p> <p>11 trip, right?</p> <p>12 A. Right.</p> <p>13 Q. And that's an important part of United</p> <p>14 Rentals' dedication to maintaining a safe workplace,</p> <p>15 right?</p> <p>16 A. Right.</p> <p>17 Q. To developing policies and procedures that</p> <p>18 promote good housekeeping, right?</p> <p>19 A. Right.</p> <p>20 Q. And monitoring its employees' adherence to</p> <p>21 those policies, right?</p> <p>22 A. Right.</p> <p>23 Q. And enforcing those policies, right?</p> <p>24 A. Right.</p> <p>25 Q. Do you agree that if United Rentals does not</p>
<p style="text-align: right;">59</p> <p>1 without a 24/7 commitment to safety. All employees</p> <p>2 are expected to constantly look for and correct</p> <p>3 hazards before and during all work tasks, especially</p> <p>4 when operating equipment and vehicles," right?</p> <p>5 A. Right.</p> <p>6 Q. So, do you agree that all employees are</p> <p>7 expected to look -- to constantly look for and correct</p> <p>8 hazards before and during all work tasks, right?</p> <p>9 A. Right.</p> <p>10 Q. And that's not just low-level employees or --</p> <p>11 or technicians. That's management, also, right?</p> <p>12 A. United Rentals employees, yes.</p> <p>13 Q. Further down the page I've highlighted the</p> <p>14 section that says, "As a manager, that's a very</p> <p>15 important concept. If you embrace safety, then your</p> <p>16 team will embrace safety." And it's interviewing a</p> <p>17 manager, right?</p> <p>18 A. Right.</p> <p>19 Q. Do you agree that if you embrace safety as a</p> <p>20 manager at United Rentals, that your team will embrace</p> <p>21 safety?</p> <p>22 A. Yes.</p> <p>23 Q. If you go to the second page, please. There's</p> <p>24 a section here -- this is generally in the section</p> <p>25 called resolving to avoid safety shortcuts. Do you</p>	<p style="text-align: right;">61</p> <p>1 enforce those policies, that people can get hurt?</p> <p>2 A. Explain that one more time.</p> <p>3 Q. Sure. If United Rentals does not enforce its</p> <p>4 policies regarding good housekeeping, that people can</p> <p>5 get hurt?</p> <p>6 A. There is a personal responsibility by everyone</p> <p>7 to ensure that those rules or processes or procedures</p> <p>8 are followed. So, there's a personal commitment from</p> <p>9 every single employee, regardless of --</p> <p>10 Q. If United Rentals doesn't enforce its policies</p> <p>11 regarding good housekeeping, people can get hurt,</p> <p>12 can't they?</p> <p>13 MR. WRIGHT: Objection to form.</p> <p>14 Q. (BY MR. HAYNES) You can answer.</p> <p>15 A. There's a probability that somebody could get</p> <p>16 hurt.</p> <p>17 Q. And on the right-hand side of the page, it's</p> <p>18 called -- there's a list called "Life Safety Rules."</p> <p>19 Do you see that?</p> <p>20 A. Yes.</p> <p>21 Q. It says, "Recognize and report all incidents</p> <p>22 to include near misses immediately," right?</p> <p>23 A. Right.</p> <p>24 Q. United Rentals expects all employees to</p> <p>25 recognize and report all incidents immediately,</p>

<p style="text-align: right;">62</p> <p>1 correct?</p> <p>2 A. Correct.</p> <p>3 Q. That includes every single employee, including</p> <p>4 the managers, right?</p> <p>5 A. Correct.</p> <p>6 Q. All right.</p> <p>7 (Karabanoff Exhibit No. 3 was marked)</p> <p>8 Q. (BY MR. HAYNES) I hand you Exhibit 3. Do you</p> <p>9 recognize this?</p> <p>10 A. Yes.</p> <p>11 Q. What is this?</p> <p>12 A. This is another monthly training.</p> <p>13 Q. It's another true and accurate copy of a</p> <p>14 Monthly Training Toolbox issued by United Rentals.</p> <p>15 This one's dated August of 2016, correct?</p> <p>16 A. Correct.</p> <p>17 Q. This is talking about the Hazard 360 concept</p> <p>18 you mentioned earlier, right?</p> <p>19 A. Correct.</p> <p>20 Q. And it's emphasizing the need for "Situational</p> <p>21 Awareness," right?</p> <p>22 A. Right.</p> <p>23 Q. And I've highlighted some sections. So, I'm</p> <p>24 going to talk about the first one highlighted in kind</p> <p>25 of the middle of the page. It says, "We need to</p>	<p style="text-align: right;">64</p> <p>1 A. Correct.</p> <p>2 Q. If you go a little bit further down the page</p> <p>3 in that column, it says, "We all know that you need a</p> <p>4 plan -- you need to plan your work. This includes</p> <p>5 your route to the job site and the path you may have</p> <p>6 to take, once you start a task. Always ask yourself,</p> <p>7 'Have I identified the possible hazards I may face;</p> <p>8 and do I know what I will do if something goes</p> <p>9 wrong?' " Did I read that right?</p> <p>10 A. Correct.</p> <p>11 Q. United Rentals emphasizes the importance of</p> <p>12 planning work, right?</p> <p>13 A. Right.</p> <p>14 Q. It emphasizes the importance of having</p> <p>15 policies and procedures for work tasks, right?</p> <p>16 A. Right.</p> <p>17 Q. And if it doesn't have adequate policies and</p> <p>18 procedures for work tasks, it is not providing a safe</p> <p>19 workplace, is it?</p> <p>20 MR. WRIGHT: Objection, form.</p> <p>21 A. Not necessarily.</p> <p>22 Q. (BY MR. HAYNES) What do you mean by your</p> <p>23 answer?</p> <p>24 A. Every job site may be a little bit different.</p> <p>25 We train our employees to have that keen eye to</p>
<p style="text-align: right;">63</p> <p>1 properly recognize and control workplace hazards in</p> <p>2 order to prevent accidents, injuries and near misses.</p> <p>3 It begins with knowing the policies and procedures of</p> <p>4 doing a particular task or operating a certain piece</p> <p>5 of equipment. Never do a task or operate a piece of</p> <p>6 machinery if you haven't been properly trained to do</p> <p>7 so." Did I read that correctly?</p> <p>8 A. Yes.</p> <p>9 Q. All right. So, United Rentals has an</p> <p>10 obligation to its employees to properly recognize and</p> <p>11 control workplace hazards so it can prevent accidents</p> <p>12 and injuries, right?</p> <p>13 A. Say that one more time.</p> <p>14 Q. United Rentals has an obligation to its</p> <p>15 employees to properly recognize and control workplace</p> <p>16 hazards so it can prevent accidents and injuries,</p> <p>17 correct?</p> <p>18 A. Correct.</p> <p>19 Q. And one of the ways it does that is by</p> <p>20 ensuring that its employees know the policies and</p> <p>21 procedures of doing a particular task, right?</p> <p>22 A. Correct.</p> <p>23 Q. Because if you know the policies and</p> <p>24 procedures of doing a particular task, you know how to</p> <p>25 mitigate the hazards of doing that task, right?</p>	<p style="text-align: right;">65</p> <p>1 recognize those hazards. Again, help eliminate or</p> <p>2 mitigate or empower them to stop what they're doing if</p> <p>3 there's a concern or they're not sure of what they're</p> <p>4 fixing to get into.</p> <p>5 Q. If United Rentals has nonexistent or</p> <p>6 inadequate safety policies, that's unsafe, isn't it?</p> <p>7 MR. WRIGHT: Objection, form.</p> <p>8 A. Say that one more time.</p> <p>9 Q. (BY MR. HAYNES) If United Rentals has</p> <p>10 nonexistent or inadequate safety policies, that's</p> <p>11 unsafe, isn't it?</p> <p>12 MR. WRIGHT: Objection, form.</p> <p>13 A. I'm not sure I'm understanding the question.</p> <p>14 Q. (BY MR. HAYNES) Do you know what inadequate</p> <p>15 means?</p> <p>16 A. Yes.</p> <p>17 Q. Do you know what nonexistent means?</p> <p>18 A. Yes.</p> <p>19 Q. Do you know what safety policies are?</p> <p>20 A. Yes.</p> <p>21 Q. Do you know what unsafe means?</p> <p>22 A. Yes.</p> <p>23 Q. So, if United Rentals has nonexistent or</p> <p>24 inadequate safety policies, that's unsafe, correct?</p> <p>25 MR. WRIGHT: Objection, form.</p>

<p style="text-align: right;">66</p> <p>1 A. No. The employees are trained to ensure that 2 they recognize those hazards and bring them forward to 3 ensure that we come up with a plan to, again, 4 eliminate or mitigate those hazards. 5 Q. (BY MR. HAYNES) United Rentals has an 6 obligation to have adequate safety policies, right? 7 A. Correct. 8 Q. If it doesn't have adequate safety policies, 9 that's unsafe, isn't it? 10 MR. WRIGHT: Objection, form. 11 A. No, I don't agree. 12 Q. (BY MR. HAYNES) So, you disagree that if 13 United Rentals has inadequate safety policies, that 14 it's unsafe? 15 MR. WRIGHT: Objection, form. 16 A. Because I'm confused with the question. 17 Q. (BY MR. HAYNES) What's confusing about it? 18 A. Because a policy's a policy. The actual work 19 task that the employee engages is what potentially 20 could get him hurt. 21 Q. What if there was no policy or it was 22 inadequate, couldn't that also get him hurt? 23 A. But there's other procedures that are in place 24 that either stop the employee from doing what he's 25 fixing to do --</p>	<p style="text-align: right;">68</p> <p>1 A. Right. 2 Q. And appropriate monitoring of adherence to 3 safety policies promotes safety, right? 4 A. Right. 5 Q. Go to the second page, please. This is, 6 again, talking about "Situational Awareness," all 7 right? And I've highlighted one section at the bottom 8 that says, "Tell your supervisor if you see anything 9 that you feel is unsafe to you or others," right? 10 A. Right. 11 Q. So, one of the things that United Rentals 12 expected its employees to do is to tell their 13 supervisor if they see anything that's unsafe to 14 themselves or to others, right? 15 A. Right. 16 Q. And what is a supervisor supposed to do with 17 that information? 18 A. Once the employee reports the hazard, it's the 19 manager's job to ensure that that hazard is first 20 eliminated, try to eliminate or mitigate the hazard to 21 some extent to ensure that the hazard is controlled. 22 Q. And also to warn the employees about the 23 hazard, right? 24 A. Correct. 25 Q. Who at the company is making sure that the</p>
<p style="text-align: right;">67</p> <p>1 Q. Uh-huh. 2 A. -- or help eliminate the hazards that they're 3 seeing. 4 Q. Is it acceptable to United Rentals to have 5 inadequate safety policies? 6 A. No. 7 MR. WRIGHT: Objection, form. 8 Q. (BY MR. HAYNES) Why is it not acceptable? 9 A. It's not acceptable because it should be part 10 of the process, of the work process. Now, if there's 11 a step or a condition that may be new because of 12 different job site or something that an employee comes 13 and brings forth to the table, then we put a plan 14 together to either, again, eliminate or mitigate that 15 hazard for the employee. 16 Q. Okay. So, it's not acceptable to United 17 Rentals to have inadequate safety policies? 18 A. Correct. 19 Q. Because United Rentals values safety, right? 20 A. Right. 21 Q. And adequate safety policies promote safety, 22 right? 23 A. Repeat that one more time. 24 Q. Adequate safety policies promote safety, 25 right?</p>	<p style="text-align: right;">69</p> <p>1 manager to whom the hazard is reported is actually 2 following up and either eliminating or mitigating the 3 risk from the hazard? 4 A. At a branch level, it would be the D.M.'s 5 responsibility to ensure that, anything that came up, 6 the manager followed through. 7 Q. And then it would ultimately become your 8 responsibility, right? 9 A. Correct. 10 MR. HAYNES: No. Wrong one. Sorry. I 11 burned one of your -- 12 THE REPORTER: That's all right. 13 (Karabanoff Exhibit No. 4 was marked) 14 Q. (BY MR. HAYNES) I hand you Exhibit 4. Do you 15 recognize that? 16 A. Yes. 17 Q. What is that? 18 A. This is one of our policies and procedures. 19 Q. And is this a part of a group of larger 20 policies and procedures? 21 A. Yes. 22 Q. What would you call the group of policies and 23 procedures? 24 A. They are known as P.P.B.s. 25 Q. Okay. And this one is dated April 16 of 2018,</p>

<p style="text-align: right;">70</p> <p>1 correct?</p> <p>2 A. Correct.</p> <p>3 Q. Do you know if this also applied back in 2017</p> <p>4 when the incident happened?</p> <p>5 A. The date reflects the time that the document</p> <p>6 was modified, not the time that the document was</p> <p>7 created.</p> <p>8 Q. Okay. So, some version of this applied back</p> <p>9 in 2017?</p> <p>10 A. Correct.</p> <p>11 Q. Do you have any awareness of what the changes</p> <p>12 were between the document that existed in 2017 as of</p> <p>13 this incident versus the one that's sitting right here</p> <p>14 before you as Exhibit 4?</p> <p>15 A. Not at this time, no.</p> <p>16 Q. Okay. And this subject, this particular group</p> <p>17 of policies is called "Personal Safety</p> <p>18 Responsibility," right?</p> <p>19 A. Correct.</p> <p>20 Q. And if you look at the first page, there's a</p> <p>21 section called "Purpose." Do you see that?</p> <p>22 A. Yes.</p> <p>23 Q. The first bullet point says the purpose is "To</p> <p>24 ensure that all Occupational Safety and Health and</p> <p>25 vehicle safety programs at the company are implemented</p>	<p style="text-align: right;">72</p> <p>1 Q. If you look at the second page, it says, "This</p> <p>2 policy applies to all employees of United Rentals,"</p> <p>3 true?</p> <p>4 A. True.</p> <p>5 Q. Other than the P.P.B. and the -- the toolbox</p> <p>6 monthly topics that we looked at in Exhibit 3, are</p> <p>7 there any other group of policies that United Rentals</p> <p>8 has that apply to safety of its employees at its</p> <p>9 facilities?</p> <p>10 A. Yes, the H.S.E.S. manual.</p> <p>11 Q. So, that's a distinct document from what we're</p> <p>12 looking at here in Exhibit 4?</p> <p>13 A. It's a different group of documents.</p> <p>14 Q. Okay. That applies to the health and safety</p> <p>15 of employees?</p> <p>16 A. Correct.</p> <p>17 Q. And they're expected to know and follow those?</p> <p>18 A. Correct.</p> <p>19 Q. And that would have applied to Mr. Ovalle on</p> <p>20 the day of this incident?</p> <p>21 A. Correct.</p> <p>22 Q. He would have had to know and follow the</p> <p>23 H.S.E. policies in the document you're mentioning?</p> <p>24 A. Correct.</p> <p>25 Q. If you go to the second page, please. There</p>
<p style="text-align: right;">71</p> <p>1 and enforced so as to provide a working environment</p> <p>2 that is safe and free of hazards for all United</p> <p>3 Rentals employees," true?</p> <p>4 A. True.</p> <p>5 Q. So, in order to create a workplace that is</p> <p>6 safe and free of hazards for all United Rentals</p> <p>7 employees, you have to complement and enforce safety</p> <p>8 policies, right?</p> <p>9 MR. WRIGHT: Objection, form.</p> <p>10 A. Correct.</p> <p>11 Q. (BY MR. HAYNES) The second bullet point says</p> <p>12 the purpose is that "Safe work practices are</p> <p>13 established to help both employees and management</p> <p>14 operate safely. The Personal Safety Responsibility</p> <p>15 Guidelines give direction on safe behavior</p> <p>16 requirements and the educational development</p> <p>17 requirements for infractions." Did I read that right?</p> <p>18 A. Yes.</p> <p>19 Q. So, the safe work practices confined in this</p> <p>20 document and in all United Rentals safety policies</p> <p>21 apply to both employees and management, right?</p> <p>22 A. Correct.</p> <p>23 Q. And the purpose of them is to help both</p> <p>24 employees and management operate safely, right?</p> <p>25 A. Correct.</p>	<p style="text-align: right;">73</p> <p>1 is a section -- it's Section 4 called -- titled</p> <p>2 "Policy." Do you see that?</p> <p>3 A. Yes.</p> <p>4 Q. It's talking about how "United Rentals is</p> <p>5 committed to a culture that fosters safe work</p> <p>6 behaviors and safe working conditions," right?</p> <p>7 A. Right.</p> <p>8 Q. And it says, "To create and maintain this</p> <p>9 safety culture, we have implemented a comprehensive</p> <p>10 injury and illness program, numerous safety-related</p> <p>11 policies and procedures, and comprehensive employee</p> <p>12 safety training," right?</p> <p>13 A. Right.</p> <p>14 Q. Does the comprehensive injury and illness</p> <p>15 program have a title, or what is that about?</p> <p>16 A. A comprehensive injury and illness program is</p> <p>17 the H.S.E.S. manual.</p> <p>18 Q. Okay. Who is responsible for doing the</p> <p>19 employee safety training at the company?</p> <p>20 A. The safety training is established by</p> <p>21 corporate, and we funnel to the managers. Their</p> <p>22 direct -- their direct reports are responsible for</p> <p>23 ensuring that training's completed.</p> <p>24 Q. All right. Do you agree that the importance</p> <p>25 of safety cannot be overstated at United Rentals?</p>

<p style="text-align: right;">74</p> <p>1 A. Say that one more time.</p> <p>2 Q. Sure. Do you agree that the importance of</p> <p>3 safety cannot be overstated at United Rentals?</p> <p>4 A. Yes.</p> <p>5 Q. Do you agree that all employees, including</p> <p>6 management, are expected to keep a watchful eye for</p> <p>7 dangerous conditions and correct safety hazards?</p> <p>8 A. Yes.</p> <p>9 Q. Would you go to the next page, please? This</p> <p>10 is Section 5 called "Responsibilities." Do you see</p> <p>11 that?</p> <p>12 A. Yes.</p> <p>13 Q. Actually, let me back up. Anything that we've</p> <p>14 talked about so far with respect to Exhibit 4, was any</p> <p>15 of that different back in 2017 at the time of this</p> <p>16 incident?</p> <p>17 A. I am not aware. I'm not sure.</p> <p>18 Q. Okay. Would it -- does it seem like it would</p> <p>19 have been different?</p> <p>20 A. Based on the date -- the date reflects the</p> <p>21 time that the document was revised, not the time that</p> <p>22 the document was created.</p> <p>23 Q. Yeah. I understand; but regarding the purpose</p> <p>24 and applicability, that wouldn't have changed in --</p> <p>25 after 2017, would it?</p>	<p style="text-align: right;">76</p> <p>1 practices," right?</p> <p>2 A. Correct.</p> <p>3 Q. If those don't happen, people can get hurt,</p> <p>4 can't they?</p> <p>5 A. There's a possibility.</p> <p>6 Q. That's why we have the safety policies to</p> <p>7 begin with, right?</p> <p>8 A. Correct.</p> <p>9 Q. All right. It goes on to say that "Management</p> <p>10 will immediately halt any unsafe work practice and</p> <p>11 document any safety infractions," right?</p> <p>12 A. Correct.</p> <p>13 Q. So, if management becomes aware of any unsafe</p> <p>14 work practice, it is supposed to immediately halt that</p> <p>15 unsafe work practice, right?</p> <p>16 A. Correct. Until a elimination or mitigation</p> <p>17 plan is put in place.</p> <p>18 Q. So, when management becomes aware of an unsafe</p> <p>19 work practice at a United Rentals facility, it's</p> <p>20 supposed to immediately halt work, correct?</p> <p>21 A. Correct.</p> <p>22 Q. And then it's supposed to try to fix the</p> <p>23 safety issue, right?</p> <p>24 A. Correct.</p> <p>25 Q. And if it can't fix it, it needs to mitigate</p>
<p style="text-align: right;">75</p> <p>1 A. No.</p> <p>2 Q. All right. Okay. When it comes to</p> <p>3 responsibilities --</p> <p>4 MR. WRIGHT: I'm sorry. What page are</p> <p>5 you on? The second one?</p> <p>6 MR. HAYNES: Yeah. It's -- it's URI</p> <p>7 332.</p> <p>8 MR. WRIGHT: All right.</p> <p>9 MR. HAYNES: Page 3 of the document.</p> <p>10 Q. (BY MR. HAYNES) This is -- the first section</p> <p>11 talks about the responsibility as of location</p> <p>12 management, right?</p> <p>13 A. Right.</p> <p>14 Q. In other words, the branch managers, right?</p> <p>15 A. Correct.</p> <p>16 Q. And in the case of Mr. Ovalle, it would have</p> <p>17 been two people responsible for that, true?</p> <p>18 A. True.</p> <p>19 Q. All right. It says, "Management will take</p> <p>20 necessary internal and external measures to ensure the</p> <p>21 personal safety of employees," right?</p> <p>22 A. Right.</p> <p>23 Q. It says, "Management will enforce all</p> <p>24 applicable regulations, policies and procedures, and</p> <p>25 ensure that all employees follow established safe work</p>	<p style="text-align: right;">77</p> <p>1 against it and warn about it appropriately, right?</p> <p>2 A. Correct.</p> <p>3 Q. Okay. There's not supposed to be a delay</p> <p>4 between the time that management becomes aware of the</p> <p>5 unsafe work practice and the time management halts the</p> <p>6 unsafe work practice, right?</p> <p>7 A. Right. Something -- something is in place to</p> <p>8 mitigate that hazard or eliminate it.</p> <p>9 Q. Right. It's supposed to be -- strike. New</p> <p>10 question.</p> <p>11 Management is supposed to immediately</p> <p>12 halt work when they become aware of the unsafe work</p> <p>13 practice, right?</p> <p>14 A. Correct.</p> <p>15 Q. Okay. It also says that "Management will</p> <p>16 review all unsafe acts, incidents and safety</p> <p>17 violations to determine and implement appropriate</p> <p>18 disciplinary action," correct?</p> <p>19 A. Correct.</p> <p>20 Q. Is there some set of guidelines under which</p> <p>21 management makes the disciplinary decision, or is it</p> <p>22 kind of up to their discretion?</p> <p>23 A. It's a collaboration between the branch</p> <p>24 manager and the H.R. director.</p> <p>25 Q. Do you have any input on that?</p>

<p style="text-align: right;">78</p> <p>1 A. If it's a safety infraction, they will loop me 2 in as well. 3 Q. All right. It also says that "Management will 4 ensure that all employees have been adequately trained 5 to perform their job safely," correct? 6 A. Correct. 7 Q. That's a part of United Rentals' obligation to 8 provide a safe workplace, right? 9 A. Correct. 10 Q. It also says that "Management will ensure that 11 employees are provided adequate tools to perform their 12 job safely," true? 13 A. Correct. 14 Q. That's a part of United Rentals' obligation to 15 provide its employees with a safe workplace, right? 16 A. Right. 17 Q. Go to the next page, page 4 of 8. It also 18 discusses the responsibilities of the division or 19 regional safety managers, right? 20 A. Correct. 21 Q. And the first two subsections essentially talk 22 about how district and regional managers help the 23 branch managers do their job, right? 24 A. Correct. 25 Q. And then the third section of that discusses</p>	<p style="text-align: right;">80</p> <p>1 Q. Did y'all find that Mr. Ovalle committed any 2 of these? 3 A. No. 4 Q. Okay. 5 (Karabanoff Exhibit No. 5 was marked) 6 Q. (BY MR. HAYNES) I hand you Exhibit 5. Do you 7 recognize that? 8 A. Yes. 9 Q. What is that? 10 A. It is a P.P.B. Employee Safety and Health. 11 Q. So, this is another P.P.B. from United 12 Rentals, in other words, another safety policy from 13 United Rentals. This one's titled "Employee Safety 14 and Health," right? 15 A. Correct. 16 Q. And let me back up for a second. Anything 17 that we discussed in Exhibit 4, would any of that have 18 been different at the time of the incident with 19 Mr. Ovalle that we discussed? 20 A. Again, the document reflects when it was 21 modified, not when it was created; and at this time, 22 I -- I would have to go back and look. If there was 23 minor changes, I couldn't tell you. 24 Q. Okay. I mean, does United Rentals still have 25 a copy of the version that was in effect back in 2017?</p>
<p style="text-align: right;">79</p> <p>1 how the regional managers will assist in designing and 2 implementing safety and training programs, right? 3 A. Right. 4 Q. How do they do that? 5 A. So, basically it's a plan on how we're going 6 to execute any new training initiatives that are 7 coming down and ensuring that it gets completed in a 8 timely fashion. 9 Q. All right. And then this next section talks 10 about the guidelines and various offenses the company 11 can determine and then discipline that can be meted 12 out based on those offenses, right? 13 A. Correct. 14 Q. Mr. Ovalle was not found to have committed any 15 of these offenses, was he? 16 A. Say that one more time. 17 Q. Mr. Ovalle was not found to have committed any 18 of the offenses listed in this document, was he? 19 A. Can you tell me what section you're looking 20 at? 21 Q. Sure. The section -- it's generally Section 6 22 that begins on page 4, and it continues onto page 7. 23 It lists Level I offenses, Level II offenses; and I 24 think that's it. 25 A. And the question one more time?</p>	<p style="text-align: right;">81</p> <p>1 A. Not in the online system. 2 Q. Does it have it anywhere? 3 A. I couldn't tell you. 4 Q. I mean, setting aside the differences that may 5 exist, do you agree that all those policies should 6 have applied back in 2017? 7 A. Yes. 8 Q. Okay. Okay. The purpose of Exhibit 5, the 9 Employee Safety and Health policies, is "To provide a 10 safe working environment for all United Rentals 11 employees," right? 12 A. Right. 13 Q. All right. And then under Policy, it's 14 talking about the responsibilities of each United 15 Rentals branch manager, true? 16 A. True. 17 Q. The first policy that's listed -- the first 18 responsibility listed is to "Inspect the branch 19 regularly for safety or health hazards," right? 20 A. Right. 21 Q. How often is regularly? 22 A. There is a monthly walk-around that the 23 managers are required to do on a monthly basis to 24 ensure that the branch is inspected. 25 Q. Is there a sort of checklist that they have to</p>

<p style="text-align: right;">82</p> <p>1 keep track of, things that they're supposed to be 2 looking for each month? 3 A. Yes, there is. 4 Q. And are you aware of whether Mr. Silva was 5 conducting these monthly walk-arounds in 2017? 6 A. At the time, he was. 7 Q. Okay. And why is it monthly? In other words, 8 which document, which policy, which -- which 9 management employee is setting the period as monthly? 10 A. That was what's in the procedure. That's the 11 way the procedure was written -- 12 Q. Okay. 13 A. -- on a monthly basis. 14 Q. So, there is a written procedure that governs 15 this? 16 A. Yes. 17 Q. Is that in the H.S.E. manual we talked about? 18 A. Correct. 19 Q. All right. Second responsibility of the 20 branch manager is to "Maintain the branch in 21 compliance with all governmental regulations," 22 correct? 23 A. Correct. 24 Q. That would include building codes, things like 25 that?</p>	<p style="text-align: right;">84</p> <p>1 Q. And it doesn't always own these 2 brick-and-mortar facilities, right? 3 A. Correct. 4 Q. But it leases them and has responsibility for 5 maintaining them, true? 6 A. Correct. 7 Q. And United Rentals is aware as a company that, 8 in each discreet geographic region, there might be 9 building codes, city ordinances that they have to 10 follow, right? 11 A. Correct. 12 Q. So, who is responsible at a 13 boots-on-the-ground level for making sure those codes 14 are all followed? 15 A. That would be the branch manager -- 16 Q. All right. 17 A. -- in collaboration with facilities. 18 Q. All right. No. 3 says that the branch manager 19 is supposed to "Maintain all required safety logs and 20 records and post the required notices," right? 21 A. Correct. 22 Q. What does it mean by "safety logs and 23 records"? 24 A. Morning huddle signings, any training that was 25 done, make sure -- forklift training, manlift</p>
<p style="text-align: right;">83</p> <p>1 A. We don't expect our branch managers to know 2 the building codes. That's handled by our facilities 3 group prior to us moving in. 4 Q. Okay. Who is responsible for making sure 5 they're up to code as time progresses? 6 A. It varies from state to state, but we have to 7 have a -- obtain an operating permit to do business, 8 which at that point either the city or the county 9 review to make sure that everything's up to code. 10 Q. But who at United Rentals would be responsible 11 for making sure that permitting is up to date and 12 current? 13 A. It would be facilities. 14 Q. Okay. Do -- does anyone boots-on-the-ground 15 at the branch have any responsibility for making sure 16 the facility is up to code? 17 A. Can you explain exactly what you mean when you 18 say "up to code"? 19 Q. Yeah. You just -- you just talked about how 20 buildings have to be permitted, true? 21 A. True. 22 Q. You're aware that United -- I mean, United 23 Rentals' entire business is renting heavy equipment 24 out of brick-and-mortar facilities, right? 25 A. Correct.</p>	<p style="text-align: right;">85</p> <p>1 training, make sure that that's in the employee's 2 file. 3 Q. All right. So, there should be a record of 4 every single morning safety meeting that ever took 5 place at the Canyon facility, right? There should be? 6 A. There should be. 7 Q. Okay. And then it says, "Update United 8 Rentals Safety System as appropriate." U.R.S.S.? A. Correct. 9 Q. What is that? 10 A. U.R.S.S. is the platform we use to report good 11 catches, near misses, any incident that may occur. 12 Q. This is company software? 13 A. Correct. 14 Q. All right. It says that the managers are 15 supposed to "Cultivate a culture where safe work 16 practices and behaviors are followed daily," right? 17 A. Correct. 18 Q. It says that includes "regularly walking 19 through the shop and yard to observe employees and 20 work conditions and practices," correct? 21 A. Correct. 22 Q. That's an expectation United Rentals has for 23 its managers, right? 24 A. Correct.</p>

<p style="text-align: right;">86</p> <p>1 Q. And that's something that you, among others,</p> <p>2 has a responsibility to make sure the manager is</p> <p>3 doing, right?</p> <p>4 A. Correct.</p> <p>5 Q. Are they supposed to be documenting these --</p> <p>6 these daily walk-throughs?</p> <p>7 A. No.</p> <p>8 Q. They only document the monthly walk-throughs?</p> <p>9 A. Correct.</p> <p>10 Q. It also says that the manager is supposed to</p> <p>11 "Fully implement and maintain the United Rentals</p> <p>12 I.I.P.P.," meaning, "Injury and Illness Prevention</p> <p>13 Program," true?</p> <p>14 A. Correct.</p> <p>15 Q. What is the I.I.P.P.?</p> <p>16 A. It's -- the Injury and Illness Prevention</p> <p>17 Program is keeping up with all the training the</p> <p>18 employee does, making sure that the file is created</p> <p>19 and everything is in the employee's file.</p> <p>20 Q. Okay. Other than training, is there any other</p> <p>21 aspect of the Injury and Illness Prevention Program?</p> <p>22 A. There could be the emergency contacts, any</p> <p>23 evaluations, so forth, so on.</p> <p>24 Q. Okay. No. 6 requires the branch manager to</p> <p>25 fully comply with three aspects. One is "Employee</p>	<p style="text-align: right;">88</p> <p>1 A. Correct.</p> <p>2 Q. There would be no circumstances under which it</p> <p>3 would be appropriate for United Rentals to tell one of</p> <p>4 its employees to not report an injury they had</p> <p>5 sustained, right?</p> <p>6 A. Correct.</p> <p>7 Q. It also says that the branch managers have to</p> <p>8 report near-miss incidents and document them in the</p> <p>9 U.R.S.S. system, true?</p> <p>10 A. True.</p> <p>11 Q. And they're reviewed for corrective actions,</p> <p>12 right?</p> <p>13 A. Correct.</p> <p>14 Q. What is a near-miss incident?</p> <p>15 A. Near-miss incident is -- there's different</p> <p>16 buckets in that system under the near-miss tab. Near</p> <p>17 miss is an accident that almost -- that occurred that</p> <p>18 almost could have gotten somebody hurt but did not, to</p> <p>19 fonder (sic) a good catch or a stop-work authority.</p> <p>20 Q. And so, sometimes unsafe actions occur but</p> <p>21 thankfully don't result in an injury, right?</p> <p>22 A. Correct.</p> <p>23 Q. And those unsafe acts are still being tracked</p> <p>24 by United Rentals, correct?</p> <p>25 A. Correct.</p>
<p style="text-align: right;">87</p> <p>1 injuries must be reported through the U.R.I. incident</p> <p>2 intervention line, reported to the division or region</p> <p>3 safety representative and documented in U.R.S.S.,"</p> <p>4 correct?</p> <p>5 A. Correct.</p> <p>6 Q. What is the U.R.I. incident intervention line?</p> <p>7 A. That is the work care line where employees</p> <p>8 call and report an incident and they get assessed by a</p> <p>9 nurse and then they receive further instruction from</p> <p>10 the nurse on the other line. It's a third-party</p> <p>11 service that United Rentals has.</p> <p>12 Q. Do the managers ever participate in that</p> <p>13 process?</p> <p>14 A. Depending on the circumstances, sometimes.</p> <p>15 Q. How would they participate?</p> <p>16 A. If for some reason the employee cannot report</p> <p>17 for whatever reason, they're in the hospital or they</p> <p>18 can't talk for whatever reason, then the manager would</p> <p>19 report the incident on behalf of the employee; and</p> <p>20 then a follow-up call between the employee and the</p> <p>21 nurse would take place at a later time.</p> <p>22 Q. United Rentals should never prevent an</p> <p>23 employee from being able to report an injury, right?</p> <p>24 A. Correct.</p> <p>25 Q. That would be unsafe, wouldn't it?</p>	<p style="text-align: right;">89</p> <p>1 Q. So they can identify the unsafe behavior and</p> <p>2 try to stop it from happening, right?</p> <p>3 A. Correct.</p> <p>4 Q. And that would be the corrective action,</p> <p>5 correct?</p> <p>6 A. Correct.</p> <p>7 Q. It says, "All incidents must be investigated</p> <p>8 and reported," correct?</p> <p>9 A. Correct.</p> <p>10 Q. It says, "The H.S.E.S. department will follow</p> <p>11 up on each of these as appropriate," true?</p> <p>12 A. True.</p> <p>13 Q. Are you in the H.S.E.S. department?</p> <p>14 A. Yes.</p> <p>15 Q. It says, "The Causal Factors Tab must be</p> <p>16 completed in U.R.S.S.," right?</p> <p>17 A. Correct.</p> <p>18 Q. And that's the thing you mentioned earlier</p> <p>19 when you generated the investigation report for</p> <p>20 Mr. Ovalle's incident about a week after it happened,</p> <p>21 right?</p> <p>22 A. Correct.</p> <p>23 Q. Go to the second page, please. There's a</p> <p>24 section called "Procedure," and it's discussing</p> <p>25 "Regular Safety Practices." Do you see that?</p>

<p style="text-align: right;">90</p> <p>1 A. Yes.</p> <p>2 Q. It says the branch manager has to "Appoint a</p> <p>3 safety champion"?</p> <p>4 A. Correct.</p> <p>5 Q. What is a safety champion?</p> <p>6 A. Safety champion is a employee that has a dual</p> <p>7 role and assists the branch manager in some of the --</p> <p>8 the branch manager delegates some of the safety</p> <p>9 responsibilities to the safety champion.</p> <p>10 Q. Is the safety champion an employee at the</p> <p>11 facility?</p> <p>12 A. Correct.</p> <p>13 Q. Who was the safety champion on the day of this</p> <p>14 incident?</p> <p>15 A. I do not recall. In some circumstances we</p> <p>16 have a safety champion that oversees a location, not</p> <p>17 necessarily a division. So, in other words, it would</p> <p>18 be somebody from the pump side.</p> <p>19 Q. Would there be a record of who the safety</p> <p>20 champion was as of the date of this incident?</p> <p>21 A. I would have to check. I'm not sure.</p> <p>22 Q. Should there be a record?</p> <p>23 A. There should be a record.</p> <p>24 Q. It says the safety champion is supposed to</p> <p>25 "Inspect the facility for safety or health hazards per</p>	<p style="text-align: right;">92</p> <p>1 corporate that's sent out to all the branch managers</p> <p>2 for every injury that occurs across United Rentals.</p> <p>3 Q. All right. What's the purpose of that?</p> <p>4 A. The purpose of that is to raise the awareness</p> <p>5 and educate employees of an incident that occurred to</p> <p>6 ensure that they're aware it doesn't happen again.</p> <p>7 Q. How do they disseminate these summaries to the</p> <p>8 branch managers?</p> <p>9 A. Once the -- the incident's reported, the</p> <p>10 form's finalized, it's sent via e-mail to all the</p> <p>11 branch managers.</p> <p>12 Q. It says the branch manager is also supposed to</p> <p>13 "Establish a Safety Committee" and "Co-chair the</p> <p>14 Safety Committee," right?</p> <p>15 A. Correct.</p> <p>16 Q. What is a safety committee?</p> <p>17 A. Safety committee is a group of employees at a</p> <p>18 location that gather up once a month to discuss any</p> <p>19 issues that may have come about, any discussions about</p> <p>20 P.P.E., new uniforms or new tools that they may need,</p> <p>21 depending on seasonality, different cooling devices or</p> <p>22 warming devices, depending on the situation.</p> <p>23 Q. And that program applied as of the date of</p> <p>24 this incident, right?</p> <p>25 A. Correct.</p>
<p style="text-align: right;">91</p> <p>1 the I.I.P.P., " correct?</p> <p>2 A. Correct.</p> <p>3 Q. So, the safety champion is one of the ones</p> <p>4 who's supposed to be conducting these regular</p> <p>5 walk-arounds to find unsafe actions, conditions,</p> <p>6 things like that, at the facility, true?</p> <p>7 A. Correct.</p> <p>8 Q. And the I.I.P.P. is the program that says that</p> <p>9 it's supposed to happen once a month, right?</p> <p>10 A. Correct. To document it once a month,</p> <p>11 correct.</p> <p>12 Q. And then it says the branch manager is</p> <p>13 supposed to "Review the inspection form immediately</p> <p>14 following inspection and note specific corrective</p> <p>15 actions taken or planned and document in U.R.S.S. as</p> <p>16 appropriate," true?</p> <p>17 A. Correct.</p> <p>18 Q. All right. Go to the second page. It's</p> <p>19 talk -- or not the second page. The next page I</p> <p>20 should say. It's talking about the branch manager's</p> <p>21 responsibility to post summaries of occupational</p> <p>22 illnesses or injuries, right?</p> <p>23 A. Correct.</p> <p>24 Q. What are those summaries?</p> <p>25 A. They're a -- a report that's generated by</p>	<p style="text-align: right;">93</p> <p>1 Q. That's been going on for a while, hasn't it?</p> <p>2 A. Correct.</p> <p>3 Q. So, you would expect there to have been a</p> <p>4 safety committee within the Canyon, Texas, branch,</p> <p>5 right?</p> <p>6 A. Correct.</p> <p>7 Q. And there would be documents reflecting their</p> <p>8 activities, right?</p> <p>9 A. Correct.</p> <p>10 Q. Do you know who was on the safety committee at</p> <p>11 the Canyon, Texas, branch?</p> <p>12 A. I do not recall.</p> <p>13 Q. Do you know if they actually had a safety</p> <p>14 committee?</p> <p>15 A. The -- the pumps branch that was there was</p> <p>16 active in a committee, and they oversaw that location.</p> <p>17 Correct.</p> <p>18 Q. What about the HVAC/power branch?</p> <p>19 A. They -- the committee assisted us. Since we</p> <p>20 were a small branch, they assisted us with the</p> <p>21 committee. Any questions, concerns, they would come</p> <p>22 to our employees and communicate the findings of the</p> <p>23 committee to us.</p> <p>24 Q. Were you on the safety committee for the</p> <p>25 Canyon, Texas, branch?</p>

<p style="text-align: right;">94</p> <p>1 A. No, I was not.</p> <p>2 Q. When you say "us," what do you mean by that?</p> <p>3 A. The power/HVAC side.</p> <p>4 Q. Okay. Okay. So, let me just ask. Based on</p> <p>5 your personal knowledge and recollection and</p> <p>6 experience, do you know for a fact that there was a</p> <p>7 safety committee at the Canyon, Texas, branch in March</p> <p>8 of 2017?</p> <p>9 A. Yes.</p> <p>10 Q. How do you know that?</p> <p>11 A. There's a group of auditors that go around,</p> <p>12 and that is one of the questions that is asked. And</p> <p>13 we get notified of the results if any of the safety</p> <p>14 elements are missing.</p> <p>15 Q. Okay. And you have no recollection of getting</p> <p>16 a report from an auditor that said there was no safety</p> <p>17 committee?</p> <p>18 A. Correct.</p> <p>19 Q. Who are the auditors?</p> <p>20 A. It varies. There's probably a dozen different</p> <p>21 auditors; and they go around and audit different</p> <p>22 branches in every aspect of the business, not just</p> <p>23 safety.</p> <p>24 Q. Are we talking United Rentals employees?</p> <p>25 A. Correct.</p>	<p style="text-align: right;">96</p> <p>1 involved in the audit in 2016?</p> <p>2 A. Correct. I would have been notified.</p> <p>3 Q. Okay. Can you just give me an overview of</p> <p>4 where these auditors were, what divisions they're in?</p> <p>5 A. There's a -- they're assigned different</p> <p>6 geographical areas. So, regards of your line of</p> <p>7 business, an auditor is assigned to a certain area;</p> <p>8 and that's who -- they make their rounds in that</p> <p>9 geographical area regardless of the line of business.</p> <p>10 Q. And are they -- is their job title "auditor"?</p> <p>11 Or do they do other things, and then they do this</p> <p>12 auditing once a year?</p> <p>13 A. No. That's -- that's all -- that's their job.</p> <p>14 Q. Okay. Do you know what division they're</p> <p>15 considered to be working in or group or --</p> <p>16 A. Internal audit.</p> <p>17 Q. It says the branch manager is also supposed to</p> <p>18 "Respond to any items noted by the Safety Committee</p> <p>19 within 21 days," correct?</p> <p>20 A. Correct.</p> <p>21 Q. So, at minimum, the branch manager is supposed</p> <p>22 to take action of some kind regarding any unsafe</p> <p>23 issues that the safety committee has identified,</p> <p>24 within 21 days, right?</p> <p>25 A. Correct.</p>
<p style="text-align: right;">95</p> <p>1 Q. Do you know if the Canyon, Texas, branch had</p> <p>2 been audited as of 2017?</p> <p>3 A. Yes.</p> <p>4 Q. How frequently do they audit the branches?</p> <p>5 A. Once a year.</p> <p>6 Q. And they're auditing them for safety, among</p> <p>7 other things?</p> <p>8 A. Correct.</p> <p>9 Q. Okay. Are they auditing whether or not the</p> <p>10 branches are following the policies that we looked at</p> <p>11 here today?</p> <p>12 A. There's a very detailed, specific checklist</p> <p>13 that the auditors go through with the branch managers.</p> <p>14 Q. Do you know if -- on personal knowledge, do</p> <p>15 you know if the Canyon, Texas, branch was audited in</p> <p>16 2016?</p> <p>17 A. Yes.</p> <p>18 Q. Do you know on personal knowledge whether the</p> <p>19 Canyon, Texas, branch was audited in 2017?</p> <p>20 A. No, I do not.</p> <p>21 Q. Why do you know about 2016 and not 2017?</p> <p>22 A. Because I was the director in 2016 for the</p> <p>23 power/HVAC group. 2017, I was just part of tools</p> <p>24 later on in the year. So, I don't --</p> <p>25 Q. So, you would in some way have been personally</p>	<p style="text-align: right;">97</p> <p>1 Q. All right. If you go to the next page,</p> <p>2 please. It says the safety champion -- well, strike.</p> <p>3 New question.</p> <p>4 It says the safety committee has to meet</p> <p>5 monthly "and discuss branch safety and incident</p> <p>6 prevention," correct?</p> <p>7 A. Sorry. What page were you in?</p> <p>8 Q. It's on page 4 of 5 at the top where it says</p> <p>9 "Safety Committee." I think it's the next page.</p> <p>10 Here.</p> <p>11 A. Okay. I see it. ??</p> <p>12 Q. Yes, sir. It says the safety committee is</p> <p>13 supposed to meet every month "and discuss branch</p> <p>14 safety and incident prevention," correct?</p> <p>15 A. Correct.</p> <p>16 Q. And then it says the safety committee is</p> <p>17 supposed to discuss recommendations regarding any</p> <p>18 current programs to be presented to the safety</p> <p>19 department and also discuss monthly inspection</p> <p>20 findings, true?</p> <p>21 A. True.</p> <p>22 Q. And this program was in place as of the date</p> <p>23 of this incident, right?</p> <p>24 A. Correct.</p> <p>25 Q. And it had been for quite some time, right?</p>

<p style="text-align: right;">98</p> <p>1 A. Correct.</p> <p>2 Q. So, there should be a record every month of</p> <p>3 the safety committee holding monthly meetings and</p> <p>4 conducting monthly facility inspections, right?</p> <p>5 A. Correct.</p> <p>6 Q. All right. How many times have you been to</p> <p>7 the Canyon, Texas, facility that we're here discussing</p> <p>8 today?</p> <p>9 A. I have not been to the Canyon location.</p> <p>10 Q. Okay. Will you grab Exhibit No. 1 again,</p> <p>11 please? It's actually to your right. It's the very</p> <p>12 first exhibit. There you go. You're on the right</p> <p>13 page. If you go to Topic No. 4. It's called -- or</p> <p>14 Topic No. 4 is "The layout and characteristics of the</p> <p>15 United Rentals facility where the incident occurred,"</p> <p>16 correct?</p> <p>17 A. Correct.</p> <p>18 Q. And you're here testifying about that topic,</p> <p>19 right?</p> <p>20 A. Correct.</p> <p>21 Q. But you have never been to the United Rentals</p> <p>22 facility where the incident occurred, right?</p> <p>23 A. Correct.</p> <p>24 Q. Do you think that there might be somebody else</p> <p>25 that knows more about it than you do?</p>	<p style="text-align: right;">100</p> <p>1 Rentals no longer occupies the facility in Canyon,</p> <p>2 Texas, that it did at the time of this incident. Did</p> <p>3 you know that?</p> <p>4 A. Correct. Yes, I did.</p> <p>5 Q. When did you become aware of that?</p> <p>6 A. I guess when I got contacted about deposition.</p> <p>7 I was not aware that it was closed.</p> <p>8 Q. Okay. Do you know if they're still operating</p> <p>9 a facility in Canyon anywhere else?</p> <p>10 A. I am not sure. Not for that power/HVAC group.</p> <p>11 Q. And I -- I may have asked you this earlier and</p> <p>12 I'm sorry but have you -- do you know if they have</p> <p>13 a -- another location in the Texas Panhandle?</p> <p>14 A. I'm not sure.</p> <p>15 Q. Amarillo?</p> <p>16 A. I'm not sure.</p> <p>17 Q. Okay. So, you don't have any personal</p> <p>18 knowledge or knowledge that you've gained through this</p> <p>19 lawsuit about how the facility in Canyon was set up,</p> <p>20 do you?</p> <p>21 A. No. I relied on the district manager and the</p> <p>22 operations manager to explain the layout and walk me</p> <p>23 through the layout of the shop on the power/HVAC side.</p> <p>24 Q. You relied on them to explain it to you when?</p> <p>25 A. When they were setting up the shop.</p>
<p style="text-align: right;">99</p> <p>1 A. The manager that runs the location.</p> <p>2 Q. Essentially anyone that's actually physically</p> <p>3 been there, right?</p> <p>4 A. Correct.</p> <p>5 Q. And other than the photographs that Mr. Ovalle</p> <p>6 provided in this lawsuit that you looked at to get</p> <p>7 ready for your deposition, have you ever seen any</p> <p>8 photographs of the facility?</p> <p>9 A. No.</p> <p>10 Q. You've never seen any photographs that United</p> <p>11 Rentals provided you?</p> <p>12 A. Not that I recall.</p> <p>13 Q. And I think you testified earlier that United</p> <p>14 Rentals took no photographs as part of its</p> <p>15 investigation of this incident, right?</p> <p>16 A. Correct.</p> <p>17 Q. All right. Can you specifically name</p> <p>18 individuals that would know more about the layout and</p> <p>19 characteristics of the United Rentals facility where</p> <p>20 the incident occurred?</p> <p>21 A. Art Silva would be --</p> <p>22 Q. But he no longer works there, right?</p> <p>23 A. I'm not sure. I'm not part of that region</p> <p>24 anymore. I couldn't tell you.</p> <p>25 Q. Okay. It's my understanding that United</p>	<p style="text-align: right;">101</p> <p>1 Q. So, this is before Mr. Ovalle was hurt?</p> <p>2 A. Correct.</p> <p>3 Q. How much longer before?</p> <p>4 A. I don't recall when they moved -- first moved</p> <p>5 in.</p> <p>6 Q. Was it more than a year?</p> <p>7 A. I don't think so, no.</p> <p>8 Q. Okay. So, your knowledge of the layout of the</p> <p>9 facility is limited to discussions you had with people</p> <p>10 who worked there as of when they were originally</p> <p>11 setting it up, right?</p> <p>12 A. Correct.</p> <p>13 Q. So, this would have been in 2016?</p> <p>14 A. Correct.</p> <p>15 Q. Okay. Did you also participate, or do you</p> <p>16 have any knowledge of Topic No. 11?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. Did you assist in identifying documents</p> <p>19 responsive to our discovery requests?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. Have you produced any of the monthly</p> <p>22 inspection reports from the Canyon, Texas, facility?</p> <p>23 A. Yes.</p> <p>24 Q. You have?</p> <p>25 A. Yes.</p>

<p style="text-align: right;">102</p> <p>1 Q. You've provided those to your lawyers?</p> <p>2 A. The -- are you referring to these exhibits?</p> <p>3 Q. No. I'm talking about the monthly inspection</p> <p>4 reports --</p> <p>5 A. Oh.</p> <p>6 Q. -- that the branch managers fill out.</p> <p>7 A. No.</p> <p>8 Q. Why haven't you produced those?</p> <p>9 A. The branch is no longer operating. I -- I</p> <p>10 wouldn't know where to start.</p> <p>11 Q. It wouldn't be in the company-wide database</p> <p>12 system we've been discussing today?</p> <p>13 A. No.</p> <p>14 Q. Those kinds of records aren't kept in the</p> <p>15 company-wide database?</p> <p>16 A. No.</p> <p>17 Q. Where are they kept?</p> <p>18 A. It's a manual form. It's a paper form.</p> <p>19 Q. Why is that not kept in the database?</p> <p>20 A. The system does not have the capability to</p> <p>21 perform the audit electronically.</p> <p>22 Q. When you say "audit," do you mean these annual</p> <p>23 audits?</p> <p>24 A. Monthly inspection -- no. The monthly</p> <p>25 inspections. Sorry.</p>	<p style="text-align: right;">104</p> <p>1 log of the training for a calendar year, and then we</p> <p>2 start over.</p> <p>3 Q. Does that also apply to digital records?</p> <p>4 A. No.</p> <p>5 Q. Well, aren't the training records all kept</p> <p>6 digitally?</p> <p>7 A. To some extent, yes. Our monthly training,</p> <p>8 yes.</p> <p>9 Q. Well, what other training is there?</p> <p>10 A. There is forklift training, different types of</p> <p>11 equipment training. There's manufacturer's training</p> <p>12 for different particular tasks, for different</p> <p>13 equipment, depending on your job title.</p> <p>14 Q. Uh-huh.</p> <p>15 A. There's training for drivers. There's late</p> <p>16 start. There's a lot of training that takes place</p> <p>17 that gets tracked differently.</p> <p>18 Q. Okay. So, if I consult the United Rentals</p> <p>19 database that we've talked about today that's also</p> <p>20 referenced in the exhibit we just looked at, it's not</p> <p>21 going to contain any monthly inspection reports</p> <p>22 conducted by either the branch manager or the safety</p> <p>23 committee, correct?</p> <p>24 A. Correct.</p> <p>25 Q. And your testimony is that that is -- that is</p>
<p style="text-align: right;">103</p> <p>1 Q. Okay. What about the monthly inspections by</p> <p>2 the safety committees, are there any records of those?</p> <p>3 A. They -- they would be at the branch location.</p> <p>4 Q. And you have no idea when the branch location</p> <p>5 stopped operating?</p> <p>6 A. Correct.</p> <p>7 Q. You have no idea what happened to all the</p> <p>8 paperwork that existed there?</p> <p>9 A. Correct.</p> <p>10 Q. For all you know, it could have been shredded?</p> <p>11 A. Correct.</p> <p>12 Q. It could have been burned up?</p> <p>13 A. Correct.</p> <p>14 Q. It could have been intentionally destroyed?</p> <p>15 A. Say that one more time.</p> <p>16 Q. It could have been intentionally destroyed,</p> <p>17 for all you know?</p> <p>18 A. I -- I couldn't tell you what -- what happened</p> <p>19 to it.</p> <p>20 Q. Does United Rentals have a document-retention</p> <p>21 policy?</p> <p>22 A. For an operating branch, yes.</p> <p>23 Q. What's the policy?</p> <p>24 A. We keep our monthly meetings for a calendar</p> <p>25 year, and then we -- we start over. We keep our -- a</p>	<p style="text-align: right;">105</p> <p>1 a policy of United Rentals to not keep that data in</p> <p>2 the database?</p> <p>3 A. Correct. In --</p> <p>4 Q. It's kept in hard-copy format?</p> <p>5 A. Correct.</p> <p>6 Q. And the document-retention policy is to</p> <p>7 maintain those hard-copy documents for one year,</p> <p>8 right?</p> <p>9 A. Correct.</p> <p>10 Q. And then they're destroyed?</p> <p>11 A. They're not. They're sent to Iron Mountain.</p> <p>12 We package them up. Now, whether Iron Mountain holds</p> <p>13 them or not, I'm not sure; but they are -- they are</p> <p>14 transferred to Iron Mountain, which is a third-party</p> <p>15 service.</p> <p>16 Q. Well, I mean, it's a third-party service that</p> <p>17 United Rentals hires, right?</p> <p>18 A. Correct.</p> <p>19 Q. United Rentals gets to decide whether Iron</p> <p>20 Mountain destroys its documents, doesn't it?</p> <p>21 A. Correct.</p> <p>22 Q. Do you know whether United Rentals tells Iron</p> <p>23 Mountain to destroy its documents?</p> <p>24 A. I'm not aware.</p> <p>25 Q. Okay. Do you know -- if you look at Topic</p>

<p style="text-align: right;">106</p> <p>1 6-i, that's United Rentals' policies and procedures 2 regarding document retention. 3 A. Correct. 4 Q. Do you know who would know more about those 5 policies? 6 A. No. We are -- we're familiar with document 7 retention at a branch level, what happens at the 8 branch and how long we keep it; and then the manager 9 proceeds and starts over every year. 10 Q. Right. But at some point the documents get 11 shipped to Iron Mountain; and Iron Mountain does 12 something with them, right? 13 A. Correct. 14 Q. They either keep them or destroy them, right? 15 A. Correct. 16 Q. And you don't know the policy of United 17 Rentals as to whether or not Iron Mountain is keeping 18 them or destroying them, right? 19 A. Correct. 20 Q. Can you name any individuals at the company 21 who would know more about that policy? 22 A. I would -- I couldn't tell you, no. 23 Q. Okay. Does Iron Mountain -- strike. New 24 question. 25 Does United Rentals have any</p>	<p style="text-align: right;">108</p> <p>1 pertaining to facility inspections with respect to the 2 Canyon, Texas, facility are destroyed? 3 MR. WRIGHT: Objection, form. 4 A. I couldn't tell you. 5 Q. (BY MR. HAYNES) Well, you know this for a 6 fact. You've never seen them, right? 7 A. Correct. 8 Q. And if the retention policy was being 9 followed, they would have been shipped to Iron 10 Mountain within a year, right? 11 A. Correct. 12 Q. And then you don't know what Iron Mountain 13 would have done with them? 14 A. Correct. 15 Q. Because you don't know what United Rentals 16 would have told Iron Mountain to do with them? 17 A. Correct. 18 Q. And there is no other digitally-stored 19 information that would encompass the information kept 20 in those physical records, right? 21 A. Right. 22 Q. All right. So, the only real digital 23 information that you would still have with respect to 24 the Canyon, Texas, facility would be e-mails, right? 25 A. Those e-mail -- our e-mail system is -- over a</p>
<p style="text-align: right;">107</p> <p>1 document-retention policies that pertain to incidents 2 that are in litigation? 3 A. Say that one more time. 4 Q. Sure. Does United Rentals have any 5 document-retentions policies that apply to incidents 6 that are in litigation, in lawsuits? 7 A. No. 8 Q. So, there's no difference between the 9 policies, as far as you know? 10 A. Correct. 11 Q. So, there -- does United Rentals issue 12 internal litigation holds for documents? 13 A. No. 14 Q. So, you're not aware of any company policy 15 where United Rentals will issue a litigation hold to 16 its employees to not destroy documents that might be 17 part of an ongoing lawsuit or a potential lawsuit? 18 A. No. If we are notified to do something, we're 19 notified; but I'm not aware of a particular policy 20 that instructs us to -- 21 Q. That would -- 22 A. -- to do so. 23 Q. That would be news to you, right? 24 A. Correct. 25 Q. So, as far as you know, all of the documents</p>	<p style="text-align: right;">109</p> <p>1 certain time, it's -- you know, because of memory or 2 whatever, e-mails just go away unless you actually 3 save them. So, digital recs would be in the U.R.S.S. 4 system, any near misses, good catches, any other 5 incidents that may have occurred at that branch. 6 Q. So, if someone didn't report any near misses 7 or injuries at the Canyon, Texas, facility during the 8 time it was open till the time it closed, there would 9 be no record of it, right? 10 A. Correct. 11 Q. And now, regardless of whether those monthly 12 inspection reports revealed any hazards or not, 13 they're gone? 14 A. I wouldn't know. I don't know where they're 15 at. 16 Q. Okay. So, now we have to just rely on 17 people's memories, right? 18 A. Correct. 19 Q. About the condition and hazards at a property 20 between March of 2017 and approximately the year 21 before, right? 22 A. Correct. 23 Q. Because we're not aware of any records that 24 might exist that may show what the conditions were? 25 A. I don't know what happened to them.</p>

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1 Q. Okay. Do you know as -- strike. New
2 question.
3 Do you know what door that Al Ovalle was
4 required to use to access the Canyon, Texas, facility
5 back in March of 2017?
6 A. There -- to my knowledge, there's no specific
7 door that's required for an employee to use. It's --
8 the facility's their facility. So, there's no
9 specific door for employees to go in and out, to and
10 from.
11 Q. That's to your knowledge, right?
12 A. Correct.
13 Q. But you've never been there?
14 A. Correct.
15 Q. And you didn't set the policies on which door
16 you had to enter or not, right?
17 A. Correct.
18 Q. So, you can't really dispute what he says
19 about that, right?
20 A. That it's not -- that is not a normal policy
21 within any United Rentals store, to have assigned
22 doors.
23 Q. Okay. But --
24 MR. HAYNES: Objection, nonresponsive.
25 Q. (BY MR. HAYNES) You can't dispute

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1 A. We have -- we have a power/HVAC side. So, it
2 was on the bay -- one of our bays.
3 Q. Okay.
4 A. One of the power/HVAC bays where work is
5 performed.
6 Q. Do you know what part of the building it was
7 in?
8 A. He was inside the bay on our side in the shop.
9 Q. Directionally do you know what part of the
10 building that's in?
11 A. No.
12 Q. You don't know if it's north, south, east or
13 west?
14 A. No.
15 Q. Do you know what rooms were adjacent to it, to
16 the east or west?
17 A. There's an adjacent shop that connects through
18 a door.
19 Q. Do you know what direction it is?
20 A. No.
21 Q. Do you know what facilities are -- strike.
22 Do you know what rooms were adjacent to
23 it to the north or south?
24 A. No.
25 Q. Do you know the dimensions of the room he was

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1 Mr. Ovalle's statements or testimony that he was
2 required to use a specific door to enter the facility,
3 can you?
4 MR. WRIGHT: Objection, form.
5 A. Correct.
6 Q. (BY MR. HAYNES) All right. And you can't
7 dispute Mr. Ovalle's statements or testimony that he
8 was required to park in a certain location at the
9 Canyon, Texas, facility, can you?
10 MR. WRIGHT: Objection, form.
11 A. Correct.
12 Q. (BY MR. HAYNES) All right. And did --
13 strike. New question.
14 Do you remember the name of the
15 technician you interviewed as part of your
16 investigation?
17 A. No, I do not.
18 Q. Do you remember his or her job title?
19 A. It's a technician.
20 Q. But specifically?
21 A. Mechanic.
22 Q. In the pumps division?
23 A. Pump division, yes.
24 Q. Do you know which room within the facility
25 Mr. Ovalle was injured in?

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1 injured in?
2 A. No, I do not.
3 Q. Do you know the dimensions of any of the rooms
4 in the facility?
5 A. No, not to my knowledge.
6 Q. You're aware that they don't have natural
7 light, right?
8 A. Correct.
9 Q. They have no windows, no -- no skylights,
10 anything like that?
11 A. Correct.
12 Q. So, if you walk in there and there's no lights
13 on, it's dark, true?
14 A. True.
15 Q. Do you know whether or not the door that
16 Mr. Ovalle was required to use to enter the building
17 had a light switch?
18 MR. WRIGHT: Objection, form.
19 A. To my knowledge, there was no door that he was
20 required to enter through.
21 Q. (BY MR. HAYNES) Well, let me ask it this way.
22 The door that Mr. Ovalle entered the morning he was
23 hurt, do you know if it had a light switch near it?
24 MR. WRIGHT: Objection, form.
25 A. I couldn't tell you.

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1 Q. (BY MR. HAYNES) Did you ask him?
2 A. That was never brought up to my attention.
3 MR. HAYNES: I'll object to
4 nonresponsive.
5 Q. (BY MR. HAYNES) Did you ask him --
6 A. No.
7 Q. -- about whether -- please let me finish my
8 question. Strike. New question.
9 Did you ever ask Mr. Ovalle whether the
10 door that he entered the morning of this incident had
11 a light switch near it?
12 A. No.
13 MR. WRIGHT: Objection, form.
14 Q. (BY MR. HAYNES) Did you ask him about the
15 lighting conditions?
16 A. No.
17 Q. Did you notate on your incident -- strike.
18 New question.
19 Did you notate on your Incident
20 Investigation Report the people that you interviewed?
21 A. No.
22 Q. Why not?
23 A. It was -- they were telling me what happened.
24 I verified with Mr. Ovalle what occurred. I
25 documented in the U.R.S.S. system, and that was that.

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1 and that was the extent of my knowledge. And Mr.
2 Ovalle. There may have been other people there. I'm
3 -- I'm not -- I wasn't aware.
4 Q. Do you know anything about Mr. Ovalle's work
5 record at United Rentals?
6 A. Explain.
7 Q. I mean, I don't know how -- do you know
8 anything about his work record?
9 A. Like evaluations, attendance?
10 Q. Anything.
11 A. Yes, I know some.
12 Q. Tell me about it.
13 A. He's a mechanic, lot of experience. He's a
14 good employee; not had a bad evaluation, to my
15 knowledge, the previous year. That's about the extent
16 that I --
17 Q. Based on your knowledge, Mr. Ovalle was a good
18 employee, right?
19 A. Correct.
20 Q. There was nothing to indicate that he was
21 unsafe, right?
22 A. No.
23 Q. Nothing to indicate that he took risks when it
24 came to safety, right?
25 A. Not to my knowledge.

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1 Q. There were no eyewitnesses to the incident
2 other than Mr. Ovalle, right?
3 A. Correct.
4 Q. Anything that anyone learned about this
5 incident was secondhand from Mr. Ovalle, right?
6 A. Correct.
7 Q. No one actually witnessed it, right?
8 A. Correct.
9 Q. Okay. As far as you know, there were no
10 cameras or any other devices that would have captured
11 the events in question, right?
12 A. Correct.
13 Q. How do you know that?
14 A. There was no -- no system. I asked Art, and
15 there was no cameras in place. So, I verified with
16 Art at the time of the incident.
17 Q. Okay. Do you know if there were any cameras
18 at any part of the facility?
19 A. Not to my knowledge.
20 Q. Okay. Do you know who was present at the
21 facility when the incident took place?
22 A. I know some of the people that were present.
23 Q. Who were they?
24 A. It was the branch manager for pumps. I
25 believe there was one technician on the pumps side,

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1 Q. Nothing to indicate that he was an untruthful
2 employee, right?
3 A. Not to my knowledge.
4 Q. Nothing to indicate that he was not in shape
5 enough to do the job, right?
6 MR. WRIGHT: Objection, form.
7 A. I -- I couldn't tell you if he was in shape or
8 not.
9 Q. (BY MR. HAYNES) I mean, do you have any
10 evidence you can offer the jury that Mr. Ovalle --
11 Mr. Ovalle's physical condition before this incident
12 happened was such that he couldn't do the work that
13 United Rentals asked him to do?
14 A. No.
15 Q. Has anybody ever told you that?
16 A. No.
17 Q. Do you have any reason -- any reason to
18 believe it?
19 A. There's always C.N.A.s measured; and in the
20 performance document, Mr. Ovalle had a needs
21 improvement because the equipment percentage of not
22 available was high.
23 Q. What does that have to do with his physical
24 condition?
25 A. That's what I'm tell -- I couldn't tell you.

<p style="text-align: right;">118</p> <p>1 That's -- that's the only thing that I -- that I can 2 go by. 3 Q. But that has -- 4 A. I don't know. 5 Q. That has nothing to do with his physical 6 condition, to your knowledge? 7 A. Correct. 8 Q. Okay. 9 MR. HAYNES: Do you want to take a 10 break? Take a break. 11 THE VIDEOGRAPHER: Off the record, 12 12:43. 13 (Brief recess) 14 THE VIDEOGRAPHER: The time is 12:59, 15 back on the record, beginning of File 2. 16 Q. (BY MR. HAYNES) You ready to keep going? 17 A. Yes. 18 Q. What is your understanding of what happened to 19 Mr. Ovalle, based upon your investigation? 20 A. Mr. Ovalle, what I understand, it was 21 afternoon on the 28th, around 2:00 o'clock. He 22 noticed some water in one of the bays and proceeded to 23 clean and squeegee the water out of that bay; and in 24 doing so, while he was doing that activity, he slipped 25 and fell.</p>	<p style="text-align: right;">120</p> <p>1 him to clean the floor if it was wet, right? 2 A. That was the mitigation for if there was a 3 spill, for them to clean up. 4 Q. Okay. And your belief is that it happened in 5 the afternoon? 6 A. To my knowledge, in -- in part of my 7 investigation, it happened that afternoon on the -- on 8 the 28th. 9 Q. All right. And everything that you mentioned 10 about how it happened you gained from three interviews 11 that you conducted after the incident, right? 12 A. Correct. 13 Q. When did you conduct the interviews? 14 A. When -- I started inquiring about the incident 15 when it was reported to me through Art Silva. 16 Q. And when was that? 17 A. I believe it was the next day, the next 18 morning. 19 Q. All right. Prior to conducting your interview 20 with Mr. Ovalle, did you have any other conversations 21 with him? 22 A. Not to my knowledge. 23 Q. Subsequent to your interview with Mr. Ovalle, 24 did you have any other conversations with him? 25 A. Yes.</p>
<p style="text-align: right;">119</p> <p>1 Q. So, one of the -- new question. Strike. New 2 question. 3 He was using a squeegee that United 4 Rentals had provided him at the facility? 5 A. Correct. 6 Q. And that was intended to help employees keep 7 water off the floor? 8 A. Correct. 9 Q. And you -- it's your understanding that 10 Mr. Ovalle had to access the wet floor or get close to 11 it to be able to squeegee it, right? 12 A. I wasn't there. So, I'm not sure. 13 Q. Well, based upon your investigation. 14 A. He was cleaning the -- I'm not sure where the 15 squeegee was, but he was cleaning the -- or 16 squeegeeing the water at the time of his fall. 17 Q. I mean, do you agree with me that to squeegee 18 or clean water off a floor, you have to get -- you 19 have to access the floor to clean it, right? 20 A. You have to access the floor. Correct. 21 Q. All right. Do you have any complaint about 22 his decision to try to use the squeegee to clean the 23 floor? 24 A. No. 25 Q. That's the way that United Rentals expected</p>	<p style="text-align: right;">121</p> <p>1 Q. When? 2 A. Couldn't recall. I had several conversations 3 with him, just checking on him, and then followed up, 4 check on him when he was in the hospital. 5 Q. Would these be phone calls? 6 A. Correct. 7 Q. Did you ever go visit him in the hospital? 8 A. No. 9 Q. So, to the best of your knowledge, the sum 10 total of your communications with Mr. Ovalle about 11 this incident are an interview you conducted and a 12 couple of phone calls to him after the interview to 13 check on him? 14 A. Correct. 15 Q. All right. Do you agree that water on the 16 floor of the bay where Mr. Ovalle was hurt is a 17 hazard? 18 A. It can potentially be a hazard. 19 Q. Particularly because of the painted floor 20 which can make it very slippery, right? 21 A. A painted surface could be more slippery than 22 an unpainted surface when wet. 23 Q. That includes the floor of the bay where 24 Mr. Ovalle was injured, right? 25 A. It was a painted surface, yes.</p>

<p style="text-align: right;">122</p> <p>1 Q. All right. And what efforts did United 2 Rentals take, prior to the time that Mr. Ovalle was 3 hurt, to make that floor safe? 4 MR. WRIGHT: Objection, form. 5 A. Say that one more time, please. 6 Q. (BY MR. HAYNES) Sure. What efforts did 7 United Rentals take, prior to the time that Mr. Ovalle 8 was hurt, to make that floor safe? 9 MR. WRIGHT: Objection, form. 10 A. I'm not aware. They was -- they had the 11 proper tools. There was spill kits on site. There 12 was squeegees on site to clean up any potential spills 13 that occurred in their work areas. 14 Q. (BY MR. HAYNES) What's a spill kit? 15 A. A spill kit is a container that has different 16 material to either clean up or contain a spill from 17 equipment or any type of liquid or fluid that may be 18 leaking on -- onto a floor. 19 Q. How do you know that this facility had spill 20 kits? 21 A. Because it's part of the set-up process. 22 Q. But how do you personally know that this 23 facility had spill kits? 24 A. I asked Art, and spill kits were in the bays. 25 Q. You have no personal knowledge, right?</p>	<p style="text-align: right;">124</p> <p>1 A. Yes. 2 Q. Diapers are used for hydrocarbons, right, 3 primarily? 4 A. Correct. 5 Q. Not water, right? 6 A. Correct. 7 Q. Okay. Do you have any complaints about what 8 Mr. Ovalle did? 9 A. No. 10 Q. Do you fault him for slipping and falling? 11 A. I don't fault him for slipping and falling. 12 It's every employee's personal responsibility to -- as 13 they're doing your task, to continue to do a Hazard 14 360 and recognize, you know, any potential hazards, 15 take extra -- extra precaution so they don't get hurt 16 while performing their task. 17 Q. Can you identify any extra precautions that 18 Mr. Ovalle, in your mind, should have taken? 19 A. When you do a 360, you're -- you -- you are 20 taught to, you know, have your head and swivel -- look 21 all the way around, make sure where your footing is, 22 make sure where you're stepping to ensure that you 23 don't have an incident or an accident. 24 Q. Right. But my question is, can you identify 25 any specific things that you believe Mr. Ovalle should</p>
<p style="text-align: right;">123</p> <p>1 MR. WRIGHT: Objection, form. 2 A. I verified with the managers, and there were 3 spill kits there. 4 Q. (BY MR. HAYNES) Did you personally observe 5 spill kits? 6 A. No. 7 Q. You were told by Art Silva that there were 8 spill kits, right? 9 A. Correct. 10 Q. And you verified with who else? 11 A. Just with Art. 12 Q. Okay. And what verification efforts did you 13 take to make sure he was correct? 14 A. None. Since the spill kits weren't used, the 15 method that was used to clean the spill at the bay was 16 the squeegee. 17 Q. So, you don't have an issue with Mr. Ovalle 18 allegedly using a squeegee to make the floor dry 19 versus the spill kit, right? 20 A. No, I don't. 21 Q. And I mean, you worked in petrochemical plants 22 before, right? 23 A. Correct. 24 Q. You are aware that -- I mean, they use 25 diapers, right? You know what a diaper is?</p>	<p style="text-align: right;">125</p> <p>1 have done in addition to using the squeegee? 2 A. Other than awareness in the tasks that he was 3 doing, no. 4 Q. Do you know the source of the water on the 5 floor? 6 A. No. My knowledge was that there was some 7 seepage because of the heavy rains that took place at 8 that time. 9 Q. Okay. Where was the seepage coming from? 10 A. To my knowledge, it was coming from one of the 11 bay doors. 12 Q. The garage door, right? 13 A. Correct. 14 Q. Are you aware that Mr. Ovalle had complained 15 about seepage through the garage bay door prior to the 16 day of this incident? 17 A. No. 18 Q. Are you aware of that now? 19 A. Yes. 20 Q. How are you made aware of that? 21 A. Through some of the documents that I read. 22 Q. If Mr. Ovalle would have complained about 23 water -- rainwater seeping through the garage bay door 24 and it creating a slip hazard, would you have expected 25 United Rentals to fix the problem?</p>

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1 A. I would expect it to have some type of plan in
2 place to mitigate that hazard.

3 Q. Do you have any evidence or did you become
4 aware of any efforts that United Rentals took to fix
5 or correct the water-seepage problem that Mr. Ovalle
6 identified to it?

7 A. I wasn't aware there was a problem. So, no.

8 Q. So, you weren't aware of any efforts for them
9 to fix it?

10 A. Correct.

11 Q. You're not disputing that Mr. Ovalle reported
12 that problem, are you?

13 MR. WRIGHT: Objection, form.

14 A. It wasn't never brought up to -- to me. It
15 was never an issue, even when -- during the time of
16 the accident.

17 Q. (BY MR. HAYNES) So, your testimony is that
18 Mr. Ovalle did not tell you where the rainwater came
19 from?

20 MR. WRIGHT: Objection, form.

21 A. Mr. Ovalle never told me that it was a -- was
22 an issue prior to the accident.

23 Q. (BY MR. HAYNES) Okay. Do you know if he told
24 anybody at the Canyon facility whether the water
25 seepage was a problem prior to the incident?

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1 potential to be a hazard can become a hazard if
2 nothing is done about it, right?

3 A. Should be eliminated or mitigated.

4 Q. So, yes?

5 A. Yes.

6 Q. All right. Did your investigation reveal how
7 much water was on the floor?

8 A. No. It was revealed to me that it was a
9 puddle in the work area.

10 Q. Was it one puddle?

11 A. I don't recall.

12 Q. Do you agree that Mr. Ovalle had to access
13 this room to do his work at United Rentals?

14 THE REPORTER: I'm sorry. I didn't hear
15 the last part.

16 Q. (BY MR. HAYNES) Do you agree with me that
17 Mr. Ovalle had to access this room to do his work at
18 United Rentals?

19 A. Correct.

20 Q. This is the room that he worked in, right?

21 A. It's the bay that he worked in, yes.

22 Q. Have you ever heard it referred to as the
23 generator shop?

24 A. Yes.

25 Q. Okay. And sometimes equipment is housed in

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1 A. I'm not aware.

2 Q. You can't dispute it, can you?

3 A. I don't know if he did or not.

4 Q. You're aware, based on the documents in this
5 case, that he indicated that he told people at the
6 facility that that was a problem prior to the day he
7 got hurt, right?

8 A. Correct.

9 Q. You can't dispute what he says, can you?

10 MR. WRIGHT: Objection, form.

11 A. I don't have no previous knowledge, no.

12 Q. (BY MR. HAYNES) Okay. So, you can't dispute
13 that?

14 MR. WRIGHT: Objection, form.

15 A. Correct.

16 Q. (BY MR. HAYNES) But there's no doubt in your
17 mind that, if he had reported a problem like that,
18 that's something that United Rentals should have taken
19 action about, right?

20 A. Correct.

21 Q. Because that is a dangerous situation, isn't
22 it?

23 MR. WRIGHT: Objection, form.

24 A. It has the potential of being a hazard.

25 Q. (BY MR. HAYNES) And things that have a

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1 the generator shop, right?

2 A. Not necessarily. It -- if it's in the shop,
3 it's because it's being worked on.

4 Q. Okay. And that's one of the things that
5 Mr. Ovalle did for a living, right?

6 A. Correct.

7 Q. He worked on equipment, right?

8 A. Correct.

9 Q. So, sometimes it is -- it's not uncommon to
10 see equipment being stored in the generator shop,
11 true?

12 A. Correct.

13 Q. All right. Are you aware of any trip
14 protect -- protection or slip protection that was
15 deployed on the floor of the generator shop by United
16 Rentals prior to this incident?

17 A. No.

18 Q. Do you have any reasons why there was no trip
19 or slip protection deployed on the floor prior to this
20 incident?

21 MR. WRIGHT: Objection, form.

22 A. I -- I couldn't tell you.

23 Q. (BY MR. HAYNES) Do you have any idea of the
24 cost or the time or effort it would have taken to
25 deploy slip or trip protection on the floor of the

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1 generator shop of this facility prior to this
2 incident?
3 MR. WRIGHT: Objection, form.
4 A. No, I couldn't tell you, no.
5 Q. (BY MR. HAYNES) Do -- do you have any reason
6 to believe it would have been cost prohibited or too
7 expensive to do that?
8 MR. WRIGHT: Objection, form.
9 A. No.
10 Q. (BY MR. HAYNES) After this incident took
11 place and you learned about the water seeping in from
12 the bay, the garage door, did you or anybody else at
13 United Rentals take any efforts to fix that problem?
14 A. I believe Art and pumps looked at the
15 situation, and they looked at the -- the entrance of
16 the bay, did an inspection; and that was the extent of
17 it. And they didn't -- to my knowledge, there was
18 nothing that was needed to be done from the bay area
19 going into the shop.
20 Q. And that -- that knowledge is based on what
21 Art told you, right?
22 A. Correct.
23 Q. Did he tell you why the -- nothing needed to
24 be done to fix the problem?
25 A. Something to do with the way the elevation,

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1 Q. You never asked Mr. Ovalle, "Hey, had this
2 happened before?"
3 A. Correct.
4 Q. You never asked Mr. Silva if it happened
5 before?
6 A. Correct.
7 Q. And the documents that would show whether or
8 not people were notating this problem pursuant to
9 monthly inspections are now gone?
10 A. Correct.
11 Q. And you have no reason to disbelieve
12 Mr. Ovalle when he says he complained about it before
13 the day he got hurt, right?
14 MR. WRIGHT: Objection, form.
15 A. I couldn't tell you if -- if he did or did
16 not.
17 Q. (BY MR. HAYNES) I mean, you're not going to
18 sit here and tell the jury he's lying, are you?
19 MR. WRIGHT: Objection, form.
20 A. I couldn't tell you if he did or he didn't
21 communicate that to his --
22 Q. (BY MR. HAYNES) And there's really no record
23 of it now, right?
24 MR. WRIGHT: Objection, form.
25 A. Not to my knowledge.

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1 the slope; and it was a unusual heavy rain that
2 occurred during that time frame when the water came
3 into the shop.
4 Q. So, your testimony is that Mr. Silva said that
5 nothing needed to be done to fix the water seepage
6 into the United Rentals facility where Mr. Ovalle
7 slipped because the rain that generated the water on
8 which Mr. Ovalle slipped was unusually heavy?
9 A. Repeat that one more time.
10 Q. Sure. Your testimony is that Mr. Silva told
11 you that nothing needed to be done about fixing the
12 water seepage problem into the garage door because --
13 which generated the water on which Mr. Ovalle slipped,
14 because that water was due to unusually heavy rains?
15 A. Correct.
16 Q. And to the best of your knowledge, Mr. Silva
17 said that -- well, strike. New question.
18 Did you ask Mr. Silva if Mr. Ovalle had
19 ever complained about the water-seepage problem
20 before?
21 A. No, it never came up as a previous issue.
22 Q. It never came up during your investigation?
23 A. Correct.
24 Q. But it was never specifically asked, right?
25 A. Correct.

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1 Q. (BY MR. HAYNES) Did you agree with
2 Mr. Silva's assessment that nothing needed to be done
3 to fix the issue because this was an unusually heavy
4 rain?
5 A. I agreed with Mr. Silva. I took his -- his
6 word on if something needed to be done, get it done;
7 but nothing needed to be done -- so -- according to
8 him. So, yeah.
9 Q. How did he define "unusually heavy rain"?
10 A. He defined there was a -- there was some bad
11 weather came through, and they had unusual rain --
12 according to him, unusual rain for the area.
13 Q. Was he from --
14 A. Heavy rain.
15 Q. -- the Panhandle?
16 A. I'm not sure he's from there. He works there.
17 Q. Are you aware of the weather in the Texas
18 Panhandle?
19 A. Not particularly.
20 Q. Are you aware that the Texas Panhandle gets
21 very violent thunderstorms very frequently?
22 MR. WRIGHT: Objection, form.
23 A. I'm not aware.
24 Q. (BY MR. HAYNES) They frequently get violent
25 hail storms, too. Did you know that?

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1 A. No.

2 Q. Is there any reason you didn't take any
3 additional effort to verify Mr. Silva's comment that
4 those are unusually heavy rains?

5 A. He was the manager that was there present. We
6 communicated with Ortegon and Carlos, the district
7 manager at the time; and we -- they agreed. And so, I
8 agreed that nothing needed to be done and left it at
9 that.

10 Q. All right. Did Mr. Ovalle or anybody else at
11 the Canyon facility for that matter have to keep time
12 sheets or records of the work they were doing on a
13 day-in/day-out basis?

14 A. No time sheets; but digitally, yes.

15 Q. Okay. Explain that.

16 A. So, when they get there, they clock in; and as
17 they're working on a asset, a work order submitted, if
18 it takes an employee two hours to repair or maintain
19 that asset to get it ready, that time gets charged to
20 that asset. That's how their time is disbursed.

21 Q. Okay. So, all the employees at the Canyon
22 facility had to clock in when they got to work and
23 started working, right?

24 A. Correct.

25 Q. All right. And sometimes people get to work,

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1 A. I believe he was working.

2 Q. So, your belief is that he finished the day of
3 work?

4 A. Correct.

5 Q. Do you know when he first got medical
6 treatment?

7 A. I'm not sure of the date.

8 Q. Do you know if it was the same day?

9 A. No, it wasn't the same day.

10 Q. How do you know it wasn't the same day?
11 A. Because when I got notified the next day,
12 Mr. Ovalle was at work.

13 Q. And your testimony to the jury is that you
14 never told Mr. Ovalle to deny that he was injured,
15 right?

16 A. Correct.

17 Q. Your testimony to the jury is that you never
18 told Mr. Ovalle to not seek medical attention?

19 A. Correct.

20 Q. If Mr. Ovalle says that, he's lying?

21 MR. WRIGHT: Objection, form.

22 A. I never told him that.

23 Q. (BY MR. HAYNES) So, he would be lying?

24 A. Correct.

25 Q. All right.

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1 and they don't clock in immediately. They may get a
2 cup of coffee or something, but eventually they will
3 clock in. But that's the expectation, right?

4 A. Correct.

5 Q. Did you look at the clock-in records when you
6 were investigating this incident?

7 A. No, I did not.

8 Q. Do you agree that the clock-in records would
9 help us understand what time of day the incident
10 happened?

11 A. There was no -- nothing indicated for me to
12 look at the records because the time of the incident
13 that was reported to me was documented. Based on my
14 investigation, it was 2:00 o'clock in the afternoon.

15 Q. Okay. Would it have been difficult for you to
16 look at the time records?

17 A. No.

18 Q. You could have just punched them up on a
19 computer, right?

20 A. The -- I would have got a printout from the
21 manager, from his direct supervisor.

22 Q. That would have been easier, right?

23 A. Yes. Correct.

24 Q. Are you aware of whether or not Mr. Ovalle
25 kept working that day after he got hurt?

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1 THE REPORTER: That will be No. 6.

2 (Karabanoff Exhibit No. 6 was marked)

3 Q. (BY MR. HAYNES) Do you recognize Exhibit 6?

4 A. Yes.

5 Q. What is that?

6 A. This is a printout out of the U.R.S.S. system
7 when a report's generated.

8 Q. Okay. Is this the report that you've
9 generated as part of your investigation of this
10 incident that you've been mentioning today?

11 A. Correct.

12 Q. And it looks like it's a total of three pages?

13 A. Correct.

14 Q. It's got your name at the top, right?

15 A. Correct.

16 Q. It's got a case number, right?

17 A. Correct.

18 Q. What is the case number? I mean, what -- what
19 does that mean exactly?

20 A. The case number, the first four digits, the
21 year.

22 Q. Uh-huh.

23 A. The next three digits are the location code.

24 Q. Uh-huh.

25 A. And the next digit is just the number of

<p style="text-align: right;">138</p> <p>1 incidents that --</p> <p>2 Q. All right. So, that's a unique number that</p> <p>3 identifies this incident and everything related to it,</p> <p>4 right?</p> <p>5 A. Correct.</p> <p>6 Q. All right. And it lists Mr. Ovalle's name,</p> <p>7 true?</p> <p>8 A. True.</p> <p>9 Q. It says the incident date and time is March</p> <p>10 28, 2017, right?</p> <p>11 A. Correct.</p> <p>12 Q. And then it says "2:00 p.m.," correct?</p> <p>13 A. Correct.</p> <p>14 Q. And then it says the date reported to the</p> <p>15 employer was March 28, 2017, right?</p> <p>16 A. Correct.</p> <p>17 Q. So, according to your investigation,</p> <p>18 Mr. Ovalle reported it immediately, true?</p> <p>19 A. True.</p> <p>20 Q. And it says the "Report was created on August</p> <p>21 8, 2019," right?</p> <p>22 A. Say that one more time.</p> <p>23 Q. Sure. If you go to the right, it says,</p> <p>24 "Report created on August 8, 2019"?</p> <p>25 A. No. The report was created a week after the</p>	<p style="text-align: right;">140</p> <p>1 interview of three people, right?</p> <p>2 A. Correct.</p> <p>3 MR. WRIGHT: Objection, form.</p> <p>4 Q. (BY MR. HAYNES) And it notates that</p> <p>5 Mr. Ovalle cleaned this area daily, correct?</p> <p>6 A. Correct.</p> <p>7 Q. Do you have any evidence or belief that</p> <p>8 Mr. Ovalle, prior to this incident, had not maintained</p> <p>9 proper housekeeping of his work area?</p> <p>10 A. No.</p> <p>11 Q. And your testimony is that -- well, strike.</p> <p>12 New question.</p> <p>13 If you go up -- up further. Sorry. I</p> <p>14 overlooked this. It says "Time injured began to work"</p> <p>15 is "7:00 a.m.," right?</p> <p>16 A. Correct.</p> <p>17 Q. And so, your testimony to the jury is that</p> <p>18 Mr. Ovalle began working at 7:00 a.m. and worked until</p> <p>19 2:00 p.m. in the afternoon and was able to avoid</p> <p>20 slipping and falling on water for six hours?</p> <p>21 A. Correct. From 7:00 to 2:00.</p> <p>22 Q. Seven hours. I'm sorry. Seven hours, right?</p> <p>23 A. Whatever 7:00 to 2:00 is, yes. From 7:00 in</p> <p>24 the morning to 2:00 in the afternoon.</p> <p>25 Q. That's right.</p>
<p style="text-align: right;">139</p> <p>1 incident.</p> <p>2 MR. HAYNES: Objection, nonresponsive.</p> <p>3 Q. (BY MR. HAYNES) On Exhibit 6 it says, "Report</p> <p>4 created August 8, 2019," true?</p> <p>5 A. That's what it says. Correct.</p> <p>6 Q. Okay. And why does it say, "Report created on</p> <p>7 August 8, 2019"?</p> <p>8 A. For some reason when you print out of the</p> <p>9 system, it puts the date that you print it, not the</p> <p>10 date you create it.</p> <p>11 Q. Okay. So, your testimony is that you created</p> <p>12 this report, Exhibit 6, within a week of the incident</p> <p>13 back in March of 2017, right?</p> <p>14 MR. WRIGHT: Objection, form.</p> <p>15 A. A week after the incident. Correct. Yes.</p> <p>16 Q. (BY MR. HAYNES) And for some reason it says</p> <p>17 that this report was created on August 8, 2019, right?</p> <p>18 MR. WRIGHT: Objection, form.</p> <p>19 A. Correct.</p> <p>20 Q. (BY MR. HAYNES) And the brief description</p> <p>21 says, "Employee was using a squeegee to remove water</p> <p>22 from bay when he slipped and fell," right?</p> <p>23 A. Correct.</p> <p>24 Q. That is the sum total of the information you</p> <p>25 provided regarding what happened, based on your</p>	<p style="text-align: right;">141</p> <p>1 So, seven hours after Mr. Ovalle had</p> <p>2 been working at this facility in this generator shop</p> <p>3 with this same water on the floor that had come there</p> <p>4 the night before from heavy rain or before his shift,</p> <p>5 he was able to avoid it, right?</p> <p>6 MR. WRIGHT: Objection, form.</p> <p>7 A. I'm not aware that there was water prior to</p> <p>8 the incident that morning. I couldn't tell you.</p> <p>9 Q. (BY MR. HAYNES) Well, I mean, did your</p> <p>10 investigation reveal when this rain took place, this</p> <p>11 unusually heavy rain?</p> <p>12 A. The night before.</p> <p>13 Q. Okay. So, did your investigation reveal that</p> <p>14 the water on the floor must have been there when</p> <p>15 Mr. Ovalle appeared for work at 7:00 a.m. that</p> <p>16 morning, given that the rain came from the sky the</p> <p>17 night before?</p> <p>18 MR. WRIGHT: Objection, form.</p> <p>19 A. I addressed the -- the incident that occurred</p> <p>20 at 2:00 o'clock; and that's when my investigation</p> <p>21 started, what took place at that time.</p> <p>22 Q. (BY MR. HAYNES) Did you undertake any effort</p> <p>23 to determine when the water got there?</p> <p>24 A. No. My concern was what happened at 2:00</p> <p>25 o'clock.</p>

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1 Q. Well, doesn't when the water got there pertain
2 to why it was there and why it wasn't cleaned up?

3 A. He was cleaning it up in the process when he
4 fell. He was mitigating the problem when -- when he
5 fell.

6 Q. Right. But didn't you ask him how or why it
7 took him, according to you, seven hours to begin to
8 clean up rainwater from heavy rain the night before?

9 MR. WRIGHT: Objection, form.

10 A. No. He's always kept a clean bay. So,
11 there -- I didn't ask him because he's -- he always
12 keeps a clean bay. He recognized a hazard at that
13 time and mitigated that hazard.

14 Q. (BY MR. HAYNES) So, it doesn't strike you as
15 unusual that Mr. Ovalle was somehow able to work for
16 seven straight hours and avoid rainwater on the
17 ground; and then at the seventh hour almost on the
18 dot, he slips on the rainwater --

19 MR. WRIGHT: Objection, form.

20 Q. -- (BY MR. HAYNES) when he begins to start
21 cleaning it?

22 A. Mr. Ovalle's not assigned particularly to that
23 bay. There's other duties that he does, whether it be
24 in the yard getting equipment ready, tagging
25 equipment, helping customers out, identifying parts,

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1 came the night before.

2 A. Correct.

3 Q. So, did they continue throughout the day?

4 A. I don't recall.

5 Q. Okay. So, I mean, do you know why you wrote
6 down "day" right there?

7 A. No, I don't.

8 Q. And then you say, "The floor has a coat of
9 paint that makes the floor slick when wet," correct?

10 A. Correct.

11 Q. The fact that this floor had a coat of paint
12 that made it slick when wet was something that United
13 Rentals knew for a long time, right?

14 MR. WRIGHT: Objection, form.

15 A. When you have a surface that's covered with
16 paint, it becomes slipperier when wet.

17 Q. (BY MR. HAYNES) And that's something United
18 Rentals knew long before the day this happened, right?

19 MR. WRIGHT: Objection, form.

20 A. We knew there was paint on the floor, yes.

21 Q. (BY MR. HAYNES) And that it could be slick
22 when wet, right?

23 A. Correct.

24 Q. When you wrote that the floor was wet due to
25 heavy rains that day, did you ask anyone why heavy

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1 doing inventory. There's other tasks that he may have
2 been doing that -- that morning.

3 Q. Okay. You agree that United Rentals should
4 not restrict its employees from using whichever door
5 they feel is the most safe to access the facility,
6 right?

7 A. Correct.

8 Q. If there was a policy like that, that would be
9 an unsafe policy, right?

10 MR. WRIGHT: Objection, form.

11 A. Correct.

12 Q. (BY MR. HAYNES) If you go to the second page,
13 please. This is a section that's describing the
14 Causal Factors --

15 A. Uh-huh.

16 Q. -- true?

17 A. True.

18 Q. And the -- the first sentence that you wrote
19 down was, "The shop bay that the employee was cleaning
20 was wet due to heavy rains that day," right?

21 A. Correct.

22 Q. So, that doesn't say "night before." That
23 says "day."

24 A. Correct.

25 Q. So, you testified earlier that the heavy rains

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1 rains outside an enclosed premises would make a floor
2 inside the premises wet?

3 A. Yes.

4 Q. What did they say?

5 A. That due to the heavy rains, it seeped through
6 under the -- the bay door; and water came in through
7 the bay, which is what, my understanding, occurred
8 when Mr. Ovalle had the incident.

9 Q. Do you agree that United Rentals should not
10 have a facility that allows rainwater to seep in and
11 create slippery floors?

12 A. I agree.

13 Q. And then it says, "What was the underlying
14 cause of the accident?"

15 And you say, "Employee was preparing the
16 area for safe work by removing the water from the bay
17 when he slipped and fell," right?

18 A. Right.

19 Q. And then you say, "What failure in the safety
20 management system resulted in the immediate and
21 underlying cause of the accident?" That's the next
22 question down there, right?

23 A. Uh-huh.

24 Q. Yes?

25 A. Yes.

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1 Q. All right. And so, first of all, what is the
2 safety management system?
3 A. That is our H.E.S. -- H.S.E.S. manual that we
4 talked about earlier.
5 Q. That's the thing that the branch manager and
6 division manager are responsible for enforcing, right?
7 A. Correct.
8 Q. Okay. And this is asking what failure in that
9 system resulted in the cause, which was him slipping
10 on the floor, right?
11 A. Correct.
12 Q. And it says "Unclear/Missing/Wrong Policy or
13 Procedure," true?
14 A. True.
15 Q. So, pursuant to your investigation, you found
16 as the -- basically the cause of the cause was an
17 unclear and missing or wrong policy or procedure,
18 true?
19 A. True.
20 Q. Could you explain what you mean by
21 "Unclear/Missing/Wrong Policy or Procedure"?
22 A. When Mr. Ovalle was cleaning, it was not clear
23 to me exactly what he was doing; and if it was a -- if
24 it was an ongoing issue at that bay. Mr. Ovalle never
25 brought that to my attention or, to my knowledge, to

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1 seeped into the facility because of some problem with
2 the facility using only a squeegee?
3 MR. WRIGHT: Objection, form.
4 A. We train our employees to eliminate or
5 mitigate hazards that are identified, and that's what
6 Mr. Ovalle was doing.
7 Q. (BY MR. HAYNES) He did exactly what you asked
8 him to do, didn't he?
9 A. He was mitigating the hazard.
10 Q. Which is exactly what you wanted him to do,
11 right?
12 A. Correct.
13 Q. And he is not the one that created the
14 rainwater, right?
15 A. Correct.
16 Q. He has no authority to fix the garage door or
17 the sump or whatever the reason was that the rainwater
18 had seeped into the facility, right?
19 A. He has stop-work authority. He's empowered to
20 stop what he's doing if he feels that he is in harm's
21 way.
22 Q. If Mr. Ovalle had previously reported this
23 problem to a management, don't you think that counts
24 as stop-work authority?
25 MR. WRIGHT: Objection, form.

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1 Art's attention.
2 Q. Okay. How is that a failure of the safety
3 management system enforced by the -- by you and
4 Mr. Silva and others?
5 A. It was -- it was unclear. To me, it was
6 unclear what -- what occurred, what -- if it was
7 ongoing, if it was -- you know, it was unclear who was
8 at fault here. It was -- he was mitigating the
9 hazard, right? He was -- he identified the hazard.
10 He was mitigating the hazard; and while doing so, he
11 slipped and fell. While trying to create a -- a safe
12 work area, he slipped and fell.
13 Q. And you don't fault him for that, do you?
14 A. I don't fault him; but as we're doing the
15 task, not only at the beginning but during the task,
16 we train our employees to ensure they're doing 360 at
17 all times. Could have been his footing. Could have
18 been -- you know, any of those factors could have
19 played a role in him slipping and falling.
20 Q. You don't have any evidence that he was being
21 unsafe, do you?
22 A. I do not.
23 Q. And do you agree that United Rentals should
24 not put its employees in a position to where they're
25 trying to clean up unusually heavy rainwater that has

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1 A. I was not aware that it was reported.
2 Q. (BY MR. HAYNES) But what -- I'm asking you to
3 assume that he reported it before. Isn't that a form
4 of stopping work, trying to say, "This is a problem.
5 We need to do something about it"?
6 A. Correct.
7 Q. So, you don't fault Mr. Ovalle for, previous
8 to this day, trying to stop work and correct the
9 problem, do you?
10 MR. WRIGHT: Objection, form.
11 A. Say that one more time.
12 Q. (BY MR. HAYNES) You don't fault Mr. Ovalle
13 for, prior to this day, reporting this issue to people
14 at his branch and asking them to fix it, do you?
15 A. No, I don't fault him.
16 Q. And at that point it would become the
17 responsibility of the branch manager to make sure that
18 it got fixed, right?
19 MR. WRIGHT: Objection, form.
20 A. It was the branch manager's responsibility to
21 ensure some type of mitigation, you know, a plan,
22 whether it be different tool, like a squeegee, or some
23 kind of place to fix the area if there was an issue,
24 yes.
25 Q. (BY MR. HAYNES) The manager shouldn't have

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1 ignored the request, right?
2 A. Correct.
3 Q. And Mr. Ovalle doesn't have any authority to
4 just go out there and start building additional sumps
5 or, you know, doing things like that to -- to modify
6 the structure of the building, does he?
7 A. No, he does not.
8 Q. He'd have to get approval for that, wouldn't
9 he?
10 A. Correct.
11 Q. And he would have to do that by reporting the
12 incident in the first place or the issue in the first
13 place to management, right?
14 A. Correct.
15 Q. And then he would have to hope that they would
16 help him fix the problem, right?
17 A. Get somebody to -- if there was a problem, get
18 somebody to work on that issue.
19 Q. So, I want to drill down a little bit about
20 what you mean under the question of what -- what
21 failure in safety management. It's talking about
22 policies and procedures, right?
23 MR. WRIGHT: Objection, form.
24 Q. (BY MR. HAYNES) That's the word you use,
25 true?

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1 A. What's that? Yes, in here.
2 Q. So, you use the word "policies and
3 procedures," right?
4 A. Yes.
5 Q. And you also say that those policies and
6 procedures were unclear, missing or wrong, true?
7 MR. WRIGHT: Objection, form.
8 A. True.
9 Q. (BY MR. HAYNES) So, what policies and
10 procedures were unclear, missing or wrong?
11 A. The routine. I was not familiar of the
12 routine or Mr. Ovalle was not familiar with the
13 routine of what took place. In other words, I was
14 unclear if this was an ongoing issue. I was unclear
15 if the -- this was a problem at the branch; and to my
16 knowledge, that was never brought to my attention by
17 neither Mr. Ovalle or Art.
18 Q. So, I want to make sure I'm clear. You
19 testified earlier that you never asked Mr. Ovalle if
20 this had been a problem before he got hurt, right?
21 A. Correct.
22 Q. And you never asked Mr. Silva if this was a
23 problem before the day Mr. Ovalle got hurt, right?
24 A. Right.
25 Q. But your answer is that it was unclear to you

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1 if this was a problem before the day Mr. Ovalle got
2 hurt?
3 A. It was never -- it was never brought up.
4 Q. Okay. Well, Mr. Karabanoff, why didn't you
5 ask them, if it was unclear to you, if you were
6 investigating this incident on behalf of United
7 Rentals as one of its chief safety officers?
8 A. I didn't ask them at the time of the
9 investigation, one, Mr. Ovalle was already in the
10 hospital. So, I -- he was not in the proper state to
11 have this conversation. And then one thing led to
12 another, and that was -- as you can see on the
13 document, it's still -- the investigation's still open
14 because it was not completed because I couldn't get
15 ahold of Mr. Ovalle after the fact.
16 Q. Where does it say it's still open?
17 A. I guess it didn't print; but in the system,
18 this incident's still open, gathering --
19 Q. So, you're still investigating?
20 A. There was -- I couldn't talk to Mr. --
21 Mr. Ovalle. So, I never -- it was never finalized.
22 Q. But you testified to me that you did interview
23 Mr. Ovalle.
24 A. Yes, but -- initially, right? So, we got the
25 gist; and when I had additional questions, I didn't

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1 talk to Mr. Ovalle. He was already in the hospital.
2 Q. When he got out of the hospital, did you talk
3 to him?
4 A. No.
5 Q. Why not?
6 A. I didn't talk to him.
7 Q. The question is why?
8 A. I didn't know where he stood. I didn't know
9 if he was coming back to work. He was not working at
10 the time.
11 Q. Does the United Rentals incident investigation
12 policy say that you're only supposed to follow up on
13 investigations and close them out if the employee's
14 coming back to work for you?
15 A. No, it does not.
16 Q. So, that's not a valid reason for not having
17 talked to him, is it?
18 A. At that time, I don't know if he was working.
19 He wasn't working for us. He was at home. I was not
20 going to -- I didn't call him and bother him at home
21 while he was off.
22 Q. But you did bother him in the hospital?
23 A. What's that?
24 Q. You did bother him in the hospital?
25 A. Beginning -- at the beginning, I called to

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1 check on him; and that was the extent of it. And he
2 was under care. So, I did not discuss the incident.
3 Q. So, I'm trying -- I'm not trying to quibble
4 with you. I'm trying to understand the facts. Is it
5 your testimony that you never asked Mr. Ovalle during
6 an interview about what happened?
7 A. No. I did ask him what happened. When I had
8 follow-up questions -- once I got the information from
9 Mr. Ovalle, I had follow-up questions, right? He was
10 already in the hospital. So, I never asked those
11 follow-up questions. But the initial statement that I
12 got from him, the story that I got from him is what I
13 got -- what I have here.
14 Q. So, there could be information that exists
15 about this incident that completely clears Mr. Ovalle,
16 right?
17 MR. WRIGHT: Objection, form.
18 A. Say that one more time.
19 Q. (BY MR. HAYNES) Yeah. There could be
20 information that exists that completely clears
21 Mr. Ovalle from any fault or responsibility, right?
22 A. I couldn't tell you. I don't know.
23 Q. Well, because you haven't followed up with
24 him, right?
25 A. He was -- he wasn't working at the time.

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1 Q. I know, which means you -- there could be
2 information that he possesses that could shed light on
3 additional reasons why this incident happened, right?
4 A. There could -- there could be additional
5 information, yes.
6 Q. And you only interviewed Mr. Silva one time,
7 right?
8 A. Mr. Silva? Yes.
9 Q. And you only interviewed the technician one
10 time, right?
11 A. The technician one time, yes.
12 Q. Do you think that -- well, strike.
13 So, your investigation of this incident
14 is incomplete?
15 A. I couldn't -- I didn't talk to Mr. Ovalle
16 after the fact.
17 Q. Do you know what Mr. Ovalle has said happened,
18 based on your involvement in this lawsuit?
19 A. Based on what I saw in the document, yes.
20 Q. Well, what does he say happened?
21 A. According to the document, he says he was
22 walking in early in the morning; and the incident
23 occurred early in the morning. It was dark, and he
24 slipped and fell.
25 Q. Does that change your analysis?

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1 MR. WRIGHT: Object to form.
2 A. Explain.
3 Q. (BY MR. HAYNES) Does that change your
4 analysis, your investigation of what happened?
5 MR. WRIGHT: Objection, form.
6 A. It could, right, because it's not the same
7 incident. It's not what was reported to me.
8 Q. (BY MR. HAYNES) But we don't have a record of
9 what he actually said because that's gone, right?
10 MR. WRIGHT: Objection, form.
11 Q. (BY MR. HAYNES) Your handwritten notes of
12 your interview with Mr. Ovalle are gone, true?
13 A. Correct.
14 Q. All we have is this three-page document that
15 doesn't list anybody that was interviewed, right?
16 A. There's also a -- he reported to the nurse
17 hotline. So, that's --
18 Q. He reported to the nurse two weeks later,
19 right?
20 A. I'm not sure when -- when he called but --
21 Q. Well, you're -- you know it wasn't the day of,
22 right?
23 A. Correct.
24 Q. And you -- your testimony under oath is that
25 you don't know why he waited two weeks to go to seek

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1 medical attention, right?
2 A. Correct.
3 Q. And you definitely never told him not to seek
4 medical attention?
5 A. Correct.
6 Q. Because that would violate United Rentals'
7 policies, right?
8 A. Correct.
9 Q. And that would be wrong?
10 A. Yes.
11 Q. Do you know someone named Justin?
12 A. Justin, I believe, is the branch manager on
13 the pump side, I believe.
14 Q. Did this facility in Canyon have two branch
15 managers? In other words -- I mean, I know we have
16 the kind of unusual set of two people serving as the
17 branch manager role; but was there another branch
18 manager at that facility?
19 A. For a different division, yes.
20 Q. Okay. And that person's name was Justin,
21 right?
22 A. I believe so, yes.
23 Q. Did Justin have any supervisory authority over
24 Mr. Ovalle?
25 A. He was the -- not supervisor. No, he wasn't

<p style="text-align: right;">158</p> <p>1 his direct report, no.</p> <p>2 Q. Okay. Did you interview Justin?</p> <p>3 A. Art did.</p> <p>4 Q. Okay. Why did you not interview Justin?</p> <p>5 A. Justin was not a witness. He did not see</p> <p>6 Mr. Ovalle fall. Justin heard about it from</p> <p>7 Mr. Ovalle and reported it to Art, and I was dealing</p> <p>8 with Art since he was the operations manager for</p> <p>9 power/HVAC.</p> <p>10 Q. Do you have any record of what Justin told</p> <p>11 Art?</p> <p>12 A. That Mr. Ovalle had fallen. That afternoon he</p> <p>13 went to report it to Justin. Justin asked him how he</p> <p>14 was. Mr. Ovalle said that he was fine, just wanted to</p> <p>15 let somebody know that he had fallen but that he was</p> <p>16 fine. And that's what was relayed to me from -- from</p> <p>17 Art the next day.</p> <p>18 Q. Okay. Are you aware that what you just said</p> <p>19 conflicts with what he told the nurse?</p> <p>20 MR. WRIGHT: Objection, form.</p> <p>21 A. Yes.</p> <p>22 Q. (BY MR. HAYNES) Okay. How do you make heads</p> <p>23 or tails of that? I mean, as an investigator for</p> <p>24 United Rentals for safety incidents, what do you do</p> <p>25 when there are conflicting statements?</p>	<p style="text-align: right;">160</p> <p>1 A. Correct.</p> <p>2 Q. And Mr. Ovalle -- at the bottom of the first</p> <p>3 page, there's a paragraph; and it's called</p> <p>4 "Description of Incident." Do you see that?</p> <p>5 A. Yes.</p> <p>6 Q. And in the third sentence Mr. Ovalle tells</p> <p>7 her, "I've told them that they should do something</p> <p>8 about that because it is so dangerous"; and he's</p> <p>9 referencing water coming under the door inside the</p> <p>10 building, right?</p> <p>11 A. Uh-huh.</p> <p>12 Q. Right?</p> <p>13 A. Yes. I'm reading.</p> <p>14 Q. You don't have any reason to dispute that</p> <p>15 Mr. Ovalle had told people at the Canyon facility</p> <p>16 prior to the day of this incident that water came</p> <p>17 under the garage door inside the building, right?</p> <p>18 A. Right.</p> <p>19 Q. And to your knowledge, they did nothing about</p> <p>20 it, correct?</p> <p>21 MR. WRIGHT: Objection, form.</p> <p>22 A. I was never -- I didn't know it was an issue.</p> <p>23 So --</p> <p>24 Q. (BY MR. HAYNES) But -- which means, to your</p> <p>25 knowledge, no one at the facility did anything to</p>
<p style="text-align: right;">159</p> <p>1 MR. WRIGHT: Objection, form.</p> <p>2 A. As far as when there's conflicting statements</p> <p>3 from the nurse to what was actually said to us,</p> <p>4 it's -- it's investigated because that document goes</p> <p>5 straight to claims. So, it's investigated by claims.</p> <p>6 They -- that --</p> <p>7 THE REPORTER: 7</p> <p>8 (Karabanoff Exhibit No. 7 was marked)</p> <p>9 Q. (BY MR. HAYNES) Okay. I handed you Exhibit</p> <p>10 7. Do you recognize that?</p> <p>11 A. I recognize this because it was part of the</p> <p>12 package. We were not -- this is the -- we're not</p> <p>13 privileged to see this. This goes to the claims</p> <p>14 department. The first time I saw this document was</p> <p>15 when it was presented to me.</p> <p>16 Q. To prepare for your deposition?</p> <p>17 A. Correct.</p> <p>18 Q. By a lawyer?</p> <p>19 A. Correct.</p> <p>20 Q. You have never seen this document prior to</p> <p>21 getting ready for this deposition?</p> <p>22 A. Correct.</p> <p>23 Q. And you agree that this document contains at</p> <p>24 least a record from the nurse of what Mr. Ovalle told</p> <p>25 her a few weeks after the incident took place, right?</p>	<p style="text-align: right;">161</p> <p>1 correct that problem, right?</p> <p>2 A. Correct.</p> <p>3 MR. WRIGHT: Objection, form.</p> <p>4 Q. (BY MR. HAYNES) And you -- you agree that is</p> <p>5 a problem, right?</p> <p>6 MR. WRIGHT: Objection, form.</p> <p>7 A. Yes.</p> <p>8 Q. (BY MR. HAYNES) Water is not supposed to seep</p> <p>9 under your garage door and come into United Rentals'</p> <p>10 facility, true?</p> <p>11 A. True.</p> <p>12 Q. That's dangerous, isn't it?</p> <p>13 A. Potentially, yes.</p> <p>14 Q. All right. Mr. Ovalle also says that he "got</p> <p>15 up and went to Justin, the manager of the pumps, and</p> <p>16 told him what happened. He didn't have me report it</p> <p>17 or anything." Right?</p> <p>18 A. I see that.</p> <p>19 Q. Is that consistent with what you understood</p> <p>20 Justin's position to be, based on your investigation?</p> <p>21 A. No. He -- Justin reported it to Art once</p> <p>22 Ovalle reported it to Justin, and that was the extent</p> <p>23 of it.</p> <p>24 Q. So -- so, that would mean that Justin reported</p> <p>25 it to Art the same day, correct?</p>

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1 A. Don't recall if it was the same day or the
2 next day.
3 Q. Well, according to Mr. Ovalle's statement
4 here -- and, again, this is a statement that is
5 written down by a nurse.
6 A. Correct.
7 Q. There's no, to my knowledge, recorded
8 statement. There's no transcript of actual words that
9 Mr. Ovalle said during this time; but this is what
10 somebody else says he said. And they say that
11 Mr. Ovalle told her that he got up immediately and
12 went and told Justin what had happened; and Justin did
13 not have him report it, right?
14 A. Right.
15 Q. So, that would be the same day that he
16 reported it to Justin, true?
17 A. True.
18 Q. And if Justin was being truthful with Art,
19 then Justin would have told Art the same day, right?
20 A. True.
21 Q. And the presumption is that Art would have
22 told you the same day, right?
23 A. Correct.
24 Q. That's your expectation, true?
25 A. True.

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1 Q. But you know for a fact that you were not told
2 the same day it happened, right?
3 A. Correct.
4 Q. And Mr. Ovalle, according to the nurse, also
5 says that "There was someone there doing an audit for
6 safety. She was there when I told Justin, and she
7 didn't say anything either. So, I just went back to
8 work." Right?
9 A. I see that.
10 Q. Do you know who was there doing an audit for
11 safety?
12 A. No, it wasn't a -- it wasn't a safety -- if it
13 was a safety audit that was being conducted, it would
14 have been one of my colleagues. It would have been
15 another safety person, and there was no safety person
16 present there.
17 Q. Do you have any idea who he might have been
18 referencing here?
19 A. It could have been another employee doing a
20 walk-around. I'm not sure. Could have been --
21 Q. Okay.
22 A. -- somebody else.
23 Q. But he doesn't know the person's name. So,
24 isn't -- the presumption is that it's someone that
25 didn't work at the Canyon facility that had come

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1 there --
2 A. Correct. Correct.
3 Q. -- right?
4 So, you have no idea who that could have
5 been?
6 A. No.
7 Q. All right. Are you denying that somebody was
8 there conducting a safety audit?
9 A. No, I'm not.
10 Q. Would there be a record in the digital system
11 of United Rentals as to who was there that day
12 conducting a safety audit?
13 A. I'm not sure there was a safety audit they
14 were conducting. So, I'm not sure what they were
15 doing there. Could have been something else.
16 Q. But if we take Mr. -- or at least the nurse's
17 word for what Mr. Ovalle said, they were doing some
18 kind of safety audit, right?
19 A. It should be in -- the only safety audit that
20 would have been recorded would have been an internal
21 audit, which would be in the system.
22 Q. Okay. That's not part of those hard-copy
23 documents we talked about earlier?
24 A. No.
25 Q. So, there were internal safety audits that

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1 were kept digitally?
2 A. Internal? Yes.
3 Q. How often were those done?
4 A. Those are the audits that we talked about
5 earlier that were done once a year.
6 Q. Oh, okay. I thought you meant internally to
7 the facility.
8 A. No, no, no.
9 Q. Okay. So, Mr. Ovalle explains, according to
10 the nurse, that he worked with pain the rest of the
11 day. The next morning he basically had to talk to
12 Art, his boss, because the pain was worse, right?
13 A. Uh-huh.
14 Q. Yes?
15 A. Yes.
16 Q. Okay.
17 A. See that.
18 Q. And Art was out of town; and he indicates that
19 Art told you what had happened, right?
20 A. Correct.
21 Q. And Mr. Ovalle indicates that he talked to you
22 that morning, right?
23 A. Correct.
24 Q. And he says that you told him to basically try
25 to walk it off, right?

<p style="text-align: right;">166</p> <p>1 A. That's what it says here, but that's not what 2 I said. 3 Q. And you're denying that you told Mr. Ovalle 4 the next day to just walk it off? 5 A. Correct. 6 Q. You're denying that you told Mr. Ovalle not to 7 seek medical attention? 8 A. Correct. 9 Q. All right. You're denying that you even 10 talked to him that day, right? 11 MR. WRIGHT: Objection, form. 12 A. I talked to him the next day. 13 Q. (BY MR. HAYNES) I thought you said you talked 14 to him when he was in the hospital? 15 MR. WRIGHT: Objection, form. 16 A. I talked to Mr. Ovalle the next day when he 17 told me what happened. 18 Q. (BY MR. HAYNES) Okay. I need to make sure 19 I'm clear, and maybe I'm jumbling it. I'm sorry if I 20 am. 21 A. Okay. 22 Q. I thought you told me earlier the first time 23 you talked to him, he was in the hospital? 24 MR. WRIGHT: Objection, form. 25 A. No, no, no, no, no.</p>	<p style="text-align: right;">168</p> <p>1 Q. And this is when you say he gave you a basic 2 explanation of what had happened, right? 3 A. Correct. 4 Q. Did you ask him if he was hurt? 5 A. Yes. 6 Q. What did he tell you? 7 A. He said that he was under a little bit of 8 pain, but he was going to be okay. He just wanted to 9 report it. Same thing that he told Justin and Justin 10 told Art. 11 Q. What did you say? 12 A. I said, "There's the 877 U.R.I. risk number. 13 If you feel that you need to go to a hospital or you 14 need attention, you need to call them and report the 15 incident to them; and they'll give you further 16 instructions on what to do." And he agreed. 17 Q. So, you left it up to him as to whether he was 18 going to call? 19 A. Correct. 20 Q. You didn't instruct him to call? 21 A. I explained to him that -- according to him, 22 he was fine at the time; and I told him here was an -- 23 "Here's an option. You need to call them if -- if you 24 feel you need to." 25 Q. And during this time, you were taking</p>
<p style="text-align: right;">167</p> <p>1 Q. (BY MR. HAYNES) Okay. Let's go through it. 2 After this incident happened, when was the first time 3 you talked to Mr. Ovalle about anything? 4 A. The next day. 5 Q. That was by phone? 6 A. By phone. 7 Q. What time of day? 8 A. I don't recall, but it was the next day. 9 Q. Did he call you, or did you call him? 10 A. He called me. 11 Q. Did he use a cell phone number? 12 A. I believe so. 13 Q. Do you know where he was physically located 14 when he called you? 15 A. No. 16 Q. Did he tell you -- 17 A. Oh, he was at work. He was at work. 18 Q. Okay. Did he call your office number? 19 A. No, no. He had my cell number. 20 Q. Do you know how he got your cell number? 21 A. Could have been posted in -- at the branch. 22 Art could have gave -- there's numerous ways that it 23 could happen. 24 Q. Okay. How long did the conversation last? 25 A. I don't recall.</p>	<p style="text-align: right;">169</p> <p>1 handwritten notes? 2 A. No, because there was -- he was fine at the 3 time when we talked. 4 Q. Okay. Did you ever take handwritten notes of 5 your discussions with Mr. Ovalle? 6 A. Whenever I was doing the -- the investigation, 7 yes, but not during those phone call conversations. 8 There was nothing for me to take notes of. We were 9 just walking through the process. He never told me 10 that he was in pain or that he needed to go to the 11 doctor. I told him the -- the processes. Here's the 12 U.R.I. risk, and that was the extent of it. 13 Q. So, at that time, it was a near miss? 14 A. Yes. 15 Q. And you have a duty to report near misses so 16 they can be investigated and you can mete out 17 corrective action, right? 18 A. The manager has, yes. Correct. 19 Q. So, you should have taken notes about what he 20 was saying because it was a near miss; and somebody 21 had to report that, right? 22 A. The employee. He has access to the system. 23 Q. But you -- you're the safety director. You 24 had become aware that an employee had slipped on water 25 that came through the garage door because of rainwater</p>

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1 outside a United Rentals facility and he was reporting
2 pain and you're telling me that you couldn't have
3 initiated the near-miss reporting process?
4 A. I didn't -- I didn't initiate it.
5 Q. Could you have?
6 A. Yes.
7 Q. Nothing prevented you from, right?
8 A. No.
9 Q. If safety's your No. 1 priority, shouldn't you
10 have just reported it as a near miss to be safe?
11 A. I guess. Put it in the system.
12 Q. And then you talked to Mr. Ovalle again,
13 right, after that?
14 A. I don't recall. I -- no, I don't remember if
15 it was that same day or not.
16 Q. I'm just asking -- I'm not saying the same
17 day. I'm just saying you -- after Conversation No. 1,
18 which was the day after, where you talked to him
19 briefly about what had happened, you took no notes and
20 you did not report it as a near miss, you talked to
21 him a second time, right?
22 A. At some point, yes.
23 Q. And you don't know when?
24 A. No.
25 Q. And that was another phone call?

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1 hotline at that point, I believe, if I recall
2 correctly. Then the nurse instructed him to go seek
3 medical help, whether -- I can't remember whether he
4 sent -- it was to the doctor or clinic or E.R. I'm
5 not sure.
6 Q. So, in Conversation No. 2, did you ask him any
7 additional details about what had happened?
8 A. No.
9 Q. Okay. And in Conversation No. 2, he was not
10 in the hospital, right?
11 A. Correct.
12 Q. Conversation No. 3, did you ask him any
13 additional details about what had happened?
14 A. No.
15 Q. And in Conversation No. 3, he also was not in
16 the hospital?
17 A. I don't remember Conversation No. 3, if it
18 was -- if I communicated with Art or Mr. Ovalle; but
19 that's when he proceeded to call the nurse hotline.
20 Q. Okay. It's true that you never spoke to
21 Mr. Ovalle when he was in the hospital, right?
22 A. No. I spoke to him one time when he was in
23 the hospital.
24 Q. All right. So, there's a fourth time you
25 talked to him?

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1 A. Correct.
2 Q. And this time Mr. Ovalle was in the hospital,
3 right?
4 A. I think I talked to him before that.
5 Q. Okay. During this conversation, tell me what
6 happened.
7 A. He was saying that he was still in pain; and,
8 again, I gave him the -- the number. I believe it
9 was -- I don't know. It was closer to -- towards the
10 end of the week, I believe; and I gave him the risk
11 number. I explained to him the process of -- of the
12 nurse hotline. And he said that he would go home for
13 the weekend, and he would circle back with me Monday
14 if he needed to call.
15 Q. Okay. At that point did you report it as a
16 near miss?
17 A. No, I did not.
18 Q. Even though it counted as one?
19 A. True.
20 Q. Okay. Did you take any handwritten notes
21 during that conversation?
22 A. No.
23 Q. All right. Then did you talk to him again?
24 A. I don't know if I talked to him that Monday or
25 Art. I talked to Art; and Ovalle called the nurse

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1 A. I don't recall the third time. I don't recall
2 if it was -- if I talked to Ovalle or I talked to Art
3 the third time.
4 Q. Well, Mr. Ovalle says in Exhibit 7 that he
5 called you again on Monday and told you he was still
6 in pain; and you finally told him to call the nurse
7 hotline.
8 A. Again, I don't remember if -- if I had the
9 conversation with Mr. Ovalle or I talked to Art.
10 Q. Okay. Well, if you don't remember, you can't
11 dispute what he's saying, can you?
12 A. Correct.
13 Q. So, after this third conversation, you had a
14 fourth subsequent conversation; and that is when
15 Mr. Ovalle was in the hospital, right?
16 A. Correct.
17 Q. Okay. What did you talk about then?
18 A. I was just checking on him, see how he was
19 doing, just checking on him. That's the extent of it.
20 Q. Did you ask him what happened then?
21 A. No.
22 Q. So, you had three subsequent phone calls to
23 Mr. Ovalle after the one you had the day after the
24 incident; and you never asked him any additional
25 details about what happened?

<p style="text-align: right;">174</p> <p>1 A. No.</p> <p>2 Q. And after the fourth and final conversation</p> <p>3 you had when he was in the hospital, you never</p> <p>4 thereafter attempted to talk to him again about what</p> <p>5 had happened?</p> <p>6 A. No. He was -- he was in the hospital. He was</p> <p>7 in care. I'm not sure when he was coming back. So --</p> <p>8 Q. Yeah. But you're aware he got out of the</p> <p>9 hospital at some point, right?</p> <p>10 A. I'm assuming, yeah.</p> <p>11 Q. Did you call him periodically and check on him</p> <p>12 to find out when he got out of the hospital?</p> <p>13 A. No.</p> <p>14 Q. Why not?</p> <p>15 A. Because at that point that was turned over</p> <p>16 to -- to claims.</p> <p>17 Q. Do you know why it was turned over to claims?</p> <p>18 A. Because, like, somebody had to take care of</p> <p>19 the claims. He was in the hospital. So --</p> <p>20 Q. So --</p> <p>21 A. I'm not sure if he was coming back. I wasn't</p> <p>22 sure if he was, you know, home, workmen's comp. I</p> <p>23 didn't know.</p> <p>24 Q. So, you put your investigation on hold?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">176</p> <p>1 Q. So, nobody, to your knowledge, ever took any</p> <p>2 additional efforts to complete the investigation of</p> <p>3 this incident?</p> <p>4 A. Not to my knowledge.</p> <p>5 Q. And as of right now, you don't blame</p> <p>6 Mr. Ovalle, do you?</p> <p>7 A. Blame him for what? Explain.</p> <p>8 Q. Blame him for getting hurt.</p> <p>9 A. No.</p> <p>10 Q. Do you think that United Rentals bears any</p> <p>11 responsibility for having a facility that allowed</p> <p>12 water to seep through during rains that made the floor</p> <p>13 slippery?</p> <p>14 MR. WRIGHT: Objection, form.</p> <p>15 A. No.</p> <p>16 Q. (BY MR. HAYNES) So, you take zero</p> <p>17 responsibility?</p> <p>18 MR. WRIGHT: Objection, form.</p> <p>19 A. We train our employees to recognize those</p> <p>20 hazards. We take appropriate action as they're doing</p> <p>21 their tasks to ensure that they don't get hurt.</p> <p>22 Q. (BY MR. HAYNES) So, because you say you've</p> <p>23 trained the employees to recognize hazards, you're</p> <p>24 saying United Rentals has zero responsibility to fix</p> <p>25 or mitigate against the risks of rainwater seeping</p>
<p style="text-align: right;">175</p> <p>1 Q. And it's still pending?</p> <p>2 A. Not complete.</p> <p>3 Q. When do you expect to complete it?</p> <p>4 A. We were waiting on Mr. Ovalle; and then in</p> <p>5 transition, I was no longer over power/HVAC.</p> <p>6 Q. Who took your role?</p> <p>7 A. Taylor Abel. Sorry.</p> <p>8 Q. Taylor Abram?</p> <p>9 A. Abel.</p> <p>10 Q. Abel. How do you spell that?</p> <p>11 A. A-b-e-l.</p> <p>12 Q. Is that a guy or a girl?</p> <p>13 A. It's a guy.</p> <p>14 Q. Where does he work?</p> <p>15 A. He is housed in Florida.</p> <p>16 Q. Did you tell Mr. Abel about what had happened</p> <p>17 with Mr. Ovalle and that he needed to complete the</p> <p>18 investigation?</p> <p>19 A. No. I don't recall.</p> <p>20 Q. Why not?</p> <p>21 A. Again, once -- I was waiting on Art to tell me</p> <p>22 when he was coming back; and since the employee was</p> <p>23 not back, the investigation was at halt.</p> <p>24 Q. And then Art eventually left, right?</p> <p>25 A. I'm assuming.</p>	<p style="text-align: right;">177</p> <p>1 through a garage door or creating a slippery floor at</p> <p>2 one of its facilities?</p> <p>3 A. I'm saying that, as a United Rental employee,</p> <p>4 we have the responsibility to ensure that. You know,</p> <p>5 we, again, mitigate or eliminate any hazards</p> <p>6 associated with a task we're fixing to perform.</p> <p>7 Q. That would include rainwater seeping through</p> <p>8 the bottom of a garage door at your facility?</p> <p>9 A. Correct.</p> <p>10 Q. That's a hazard?</p> <p>11 A. Potentially, yes.</p> <p>12 Q. And nothing has been done to mitigate against</p> <p>13 it?</p> <p>14 MR. WRIGHT: Objection, form.</p> <p>15 A. He was cleaning his area.</p> <p>16 Q. (BY MR. HAYNES) Other than giving him a</p> <p>17 squeegee, nothing's been done to mitigate this?</p> <p>18 MR. WRIGHT: Objection, form.</p> <p>19 A. Not to my knowledge.</p> <p>20 Q. (BY MR. HAYNES) So, the sum total of efforts</p> <p>21 that United Rentals has made to mitigate against the</p> <p>22 known hazard of rainwater seeping through a garage</p> <p>23 door at one of its facilities, creating a slippery</p> <p>24 floor, was to give the employee a squeegee?</p> <p>25 MR. WRIGHT: Objection, form.</p>

<p style="text-align: right;">178</p> <p>1 A. Not necessarily, no.</p> <p>2 Q. (BY MR. HAYNES) What else have you done?</p> <p>3 MR. WRIGHT: Objection, form.</p> <p>4 A. I'm not sure.</p> <p>5 Q. (BY MR. HAYNES) Can you state one thing,</p> <p>6 other than giving him a squeegee, that United Rentals</p> <p>7 has done?</p> <p>8 A. No, I cannot.</p> <p>9 Q. Do you know of anybody that would know more</p> <p>10 about what has been done?</p> <p>11 A. I couldn't tell you.</p> <p>12 Q. You're -- you were the head of safety over</p> <p>13 that area, weren't you?</p> <p>14 A. Correct.</p> <p>15 Q. Shouldn't you know about anything else that</p> <p>16 would have been done, if anything?</p> <p>17 A. Nothing was communicated to me.</p> <p>18 Q. Did you follow up with the people that worked</p> <p>19 there to find out?</p> <p>20 A. We talked about it. I talked with Art about</p> <p>21 it, and nothing was -- nothing had changed, and it</p> <p>22 never became another issue.</p> <p>23 Q. So, the coincidence that nobody subsequently</p> <p>24 was injured was driving your decision not to do</p> <p>25 anything about the issue?</p>	<p style="text-align: right;">180</p> <p>1 spill kits that could have soaked up the water, swept</p> <p>2 it up. There's --</p> <p>3 Q. (BY MR. HAYNES) The spill kits that you</p> <p>4 agreed with me earlier apply to hy -- hydrocarbon</p> <p>5 environments, right?</p> <p>6 A. It applies to any liquid.</p> <p>7 Q. Really? What's the brand name of the spill</p> <p>8 kit?</p> <p>9 A. Couldn't tell you. Spill kits are -- are</p> <p>10 placed in the bay areas for them to use. So, I don't</p> <p>11 think there's a specific brand that they use.</p> <p>12 Q. You -- you don't -- can you tell me the make,</p> <p>13 model, the characteristics, anything about the product</p> <p>14 you're describing as the alleged way to fix the</p> <p>15 water-on-the-floor problem?</p> <p>16 A. Are you asking me to describe what's in the</p> <p>17 spill kit?</p> <p>18 Q. I'm asking you to tell me the characteristics</p> <p>19 of a product that you're saying would fix the problem.</p> <p>20 A. Oh, it's --</p> <p>21 MR. WRIGHT: Objection, form.</p> <p>22 A. It's an absorbent -- it's almost like a --</p> <p>23 like a cat litter that absorbs any liquid once you lay</p> <p>24 it on the floor.</p> <p>25 Q. (BY MR. HAYNES) And you told me earlier that</p>
<p style="text-align: right;">179</p> <p>1 MR. WRIGHT: Objection, form.</p> <p>2 A. No.</p> <p>3 Q. (BY MR. HAYNES) That didn't play no role in</p> <p>4 your decision not to do anything?</p> <p>5 A. No.</p> <p>6 Q. It was just the fact that Mr. Silva told you</p> <p>7 it was an unusual weather event; and, therefore,</p> <p>8 nothing needed to be done about it?</p> <p>9 A. Correct.</p> <p>10 Q. The squeegees would fix it?</p> <p>11 A. He didn't say or claim that the squeegees</p> <p>12 would fix it, but he did state that it was an unusual</p> <p>13 heavy rain.</p> <p>14 Q. Well, certainly you agreed at that time that</p> <p>15 the squeegee should do the job?</p> <p>16 A. That was a form or a method of them mitigating</p> <p>17 that hazard that was present at the time, yes.</p> <p>18 Q. That was the only form?</p> <p>19 MR. WRIGHT: Objection, form.</p> <p>20 Q. (BY MR. HAYNES) Right?</p> <p>21 A. No. There -- I mean, there could have been</p> <p>22 other measures that took place; but --</p> <p>23 Q. Can you tell the jury the other measures?</p> <p>24 MR. WRIGHT: Objection, form.</p> <p>25 A. There is absorbent that was available in the</p>	<p style="text-align: right;">181</p> <p>1 you didn't fault Mr. Ovalle for not using a spill kit,</p> <p>2 right?</p> <p>3 A. No.</p> <p>4 Q. So, you don't fault him for that?</p> <p>5 A. No.</p> <p>6 Q. So, let me ask this. Do -- does United</p> <p>7 Rentals provide training to its employees that, if</p> <p>8 there's water on the floor, you need to use a spill</p> <p>9 kit that's a powder that's -- or a diaper, as we</p> <p>10 discussed earlier, to put on the ground to absorb the</p> <p>11 water?</p> <p>12 A. No.</p> <p>13 Q. So, the only mitigating -- strike. New</p> <p>14 question.</p> <p>15 The only way that you can tell the jury</p> <p>16 that United Rentals told its employees to mitigate the</p> <p>17 hazard of rainwater seeping through a garage door onto</p> <p>18 a floor that was slippery was to use a squeegee to</p> <p>19 clean it; is that true?</p> <p>20 MR. WRIGHT: Objection, form.</p> <p>21 A. That's what they had to -- to mitigate the</p> <p>22 hazard, yes.</p> <p>23 Q. (BY MR. HAYNES) Okay. And to the best of</p> <p>24 your knowledge, from the day that Mr. Ovalle began</p> <p>25 working at the Canyon, Texas, facility to the day he</p>

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1 was hurt, United Rentals did nothing else to prevent
2 the rainwater from seeping through that door, right?
3 A. I couldn't tell. I was not aware.
4 Q. You can't cite one example of them doing
5 anything, can you?
6 A. No, I cannot.
7 Q. All right. If you go to the second page of
8 Exhibit 7, please. Do you know anything about Art
9 getting involved with taking Mr. Ovalle to the
10 hospital or to urgent care or anything like that?
11 A. No.
12 Q. Did he talk to you about that?
13 A. No.
14 Q. Did you ask him about that?
15 A. No, I did not.
16 Q. Do you deny that Mr. Ovalle is hurt?
17 MR. WRIGHT: Objection, form.
18 A. No, I do not.
19 Q. (BY MR. HAYNES) Do you know anything about
20 his current state of injuries?
21 A. No, I do not.
22 Q. Do you know if he's been able to work since
23 this incident?
24 A. No, I do not.
25 Q. You don't deny that he was seriously hurt, do

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1 A. Right.
2 Q. Is Justin Wilson the branch manager over
3 pumps, or he was at the time?
4 A. Correct.
5 Q. Okay. And who's Ryan Ferguson?
6 A. I'm not sure if he's a technician. I'm not
7 sure what his position is.
8 Q. Okay.
9 A. I don't recall.
10 Q. Did you ever talk to him?
11 A. I don't recall.
12 Q. Okay. It also says, "Additionally" -- and I
13 don't know how to say the first name. It's C-h-a-l-l-e.
14 "Dawson may also have been at the premises in question
15 at that time," right?
16 A. I see that.
17 Q. Do you know who that is?
18 A. No.
19 Q. Do you know if that's a man or a woman?
20 A. I have no idea.
21 Q. Okay. You didn't interview that person, did
22 you?
23 A. No.
24 Q. All right. If you go to the next page, No. 4,
25 please. It says to "Please identify investigations,

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1 you?
2 MR. WRIGHT: Objection, form.
3 A. No, I do not.
4 (Karabanoff Exhibit No. 8 was marked)
5 Q. (BY MR. HAYNES) Sorry. I hand you Exhibit 8.
6 Do you recognize that?
7 A. Can I get time to look it over?
8 Q. Sure.
9 A. Yes.
10 Q. Are those some of the interrogatories, also
11 known as questions, that you looked at to get ready
12 for today?
13 A. Yes.
14 Q. Okay. So, I highlighted some of the things
15 that I wanted to ask you about. So, the highlights
16 are mine, just for the record. If you go to the first
17 question --
18 A. Sure.
19 Q. -- please. It asks to identify all employees
20 on duty and working at the facility at the time and
21 scheduled to work there. There's a lot of objections.
22 Then it starts answering at the bottom. It says,
23 "Justin Wilson and Ryan Ferguson are known to have
24 been present on the premises in question at the time
25 it was reported by plaintiff," right?

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1 root -- and latent cause analysis," et cetera. Do you
2 see that?
3 A. Yes.
4 Q. And it doesn't give us an answer really. It
5 just objects.
6 Have you told me about every
7 investigation the company's made, according to your
8 knowledge?
9 A. Yes.
10 Q. Which is the incident investigation that you
11 conducted, right?
12 A. Correct.
13 Q. All right. Okay. If you go to Question
14 No. 7, please.
15 A. Uh-huh.
16 Q. It says, "Please identify all instances of
17 which you were aware, prior to the incident in
18 question, that water seeped onto the floor of the
19 generator shop from the roof, from outside, or from
20 any other source," right?
21 A. Right.
22 Q. And there's a bunch of objections, and then it
23 starts answering. Then it says, "Defendant's unaware
24 of any specific instances of water seeping in the bay
25 where Plaintiff was working; however, sometimes water

<p style="text-align: right;">186</p> <p>1 has been present in the bay at times due to water 2 being used in the bay or at times when water dripped 3 from equipment being brought inside the bay during wet 4 weather outside." Did I read that right? 5 A. Yes. 6 Q. So, at a minimum, United Rentals knew that 7 sometimes, if it was raining outside and equipment was 8 outside and was brought inside the bay, rainwater 9 would get inside the building, right? 10 A. Correct. 11 Q. But to the best of your knowledge, there's no 12 prior knowledge at the company that there was a 13 problem with water seeping under the garage door? 14 A. Correct. 15 Q. And do you think that Mr. Silva will say the 16 same thing if I depose him under oath? 17 A. I have not heard from him. So -- 18 Q. Okay. If you'd go to Question 10, please. It 19 says, "As to the area of the facility known as the 20 generator shop," which is where Mr. Ovalle got hurt, 21 it says, "please identify when the drain or sump 22 outside the garage door to the generator shop was 23 first installed and by whom," right? Do you see that? 24 A. Yes. 25 Q. And the answer is that it -- "The drain that</p>	<p style="text-align: right;">188</p> <p>1 purpose of that drain is. 2 Q. Okay. Would that be apparent to someone who 3 initially rented the facility, such as United Rentals? 4 MR. WRIGHT: Objection, form. 5 A. Facilities would have looked at it and made 6 that determination. 7 Q. (BY MR. HAYNES) Okay. And they work for 8 United Rentals? 9 A. Correct. 10 Q. All right. 14 asks about slip-and-trip 11 prevention; anti-slip devices, such as mats, things 12 like that; and it lists none. And that's correct, 13 isn't it? There were no slip-prevention mats or 14 anything like that in that bay where Mr. Ovalle was 15 working, true? 16 A. True. 17 Q. And there was nothing stopping United Rentals 18 from installing some of those, right? 19 A. Repeat that one more time. 20 Q. There was stopping United Rentals from 21 installing any such mats, right? 22 A. Right. There was none present, no. 23 Q. And there was nothing preventing you from 24 installing any, right? 25 A. Correct.</p>
<p style="text-align: right;">187</p> <p>1 exists outside the garage door for the bay where 2 Plaintiff worked was installed prior to Defendant 3 operating at that location," correct? 4 A. I see that. 5 Q. Do you have any reason to dispute that? 6 A. No. 7 Q. So, the drain that existed outside the garage 8 door of the bay where Mr. Ovalle was hurt was there 9 when United Rentals moved in, right? 10 A. Correct. 11 Q. Okay. And No. 11 asks, also, what the purpose 12 of that drain is. You see that? 13 A. I see that. 14 Q. And it says, "That drain appears able to 15 collect some water from the exterior of the building," 16 right? 17 A. I see that. 18 Q. When did United Rentals learn that? 19 A. I have not -- no idea. 20 Q. Do you know who provided the answer to this, 21 which says, "That drain appears able to collect some 22 water from the exterior of the building"? 23 A. "Drain appears" -- well, it appears it's 24 obvious that there's a drain there; but that's the 25 extent of it, that I know of. I'm not sure what the</p>	<p style="text-align: right;">189</p> <p>1 Q. And you're aware that anti-slip mats are 2 designed specifically to prevent slipping and tripping 3 on slick and wet floors, right? 4 MR. WRIGHT: Objection, form. 5 A. Yes, I am aware. 6 THE REPORTER: I'm sorry? 7 A. I am aware. 8 Q. (BY MR. HAYNES) 16 asks about prior similar 9 incidents in the five-year period before this incident 10 took place; and the position of United Rentals is that 11 nobody has ever slipped on water at that facility 12 before, right? 13 A. Correct. 14 Q. The first time it's ever happened was 15 Mr. Ovalle on the day of this incident, right? 16 A. To my knowledge. 17 MR. WRIGHT: If we can take a break 18 whenever you're ready. 19 MR. HAYNES: Okay. 20 MR. WRIGHT: Or when -- whenever it's 21 convenient, I mean. 22 MR. HAYNES: That's fine. We can take 23 one right now. 24 THE VIDEOGRAPHER: Off the record, 2:25. 25 (Brief recess)</p>

<p style="text-align: right;">190</p> <p>1 THE VIDEOGRAPHER: The time is 2:31, 2 back on the record. 3 (Karabanoff Exhibit No. 9 was marked) 4 Q. (BY MR. HAYNES) I hand you Exhibit 9. Do you 5 recognize that? 6 A. Yes, I see this. 7 Q. What is that? 8 A. This is Mr. Ovalle's evaluation that I saw in 9 preparing for this. 10 Q. All right. So, this is the true and accurate 11 copy of Mr. Ovalle's evaluation from 2017, which is 12 the year that Mr. Ovalle was hurt, right? 13 A. Correct. 14 Q. And the manager listed at the top is Carlos 15 Ortegon, right? 16 A. Correct. 17 Q. And we've talked about him today, true? 18 A. True. 19 Q. All right. And this lists various areas of 20 Mr. Ovalle's work and basically grades his performance 21 on each area for the year 2017, right? 22 A. Correct. 23 Q. And Mr. Ovalle didn't work between April of 24 2017 and the end of 2017, right? 25 A. Right.</p>	<p style="text-align: right;">192</p> <p>1 Improvement," right? 2 A. Correct. 3 Q. And the comments are, "Unfortunately, Albert 4 incurred an injury in March that has caused him to 5 miss the remainder of 2017 and that has left him on 6 leave of absence to this date. So, the bulk of this 7 review is based on the period from January through 8 March of 2017," correct? 9 A. Correct. 10 Q. It says, "Albert was performing shop 11 activities when he slipped and was injured. This is 12 very unfortunate and hinders Albert's ability to make 13 a living and how he interacts with his loved ones." 14 Did I read all that right? 15 A. Yes. 16 Q. Do you have any reason to dispute that 17 Mr. Ovalle's injury hinders his ability to make a 18 living? 19 A. No. 20 Q. Do you have any reason to dispute that 21 Mr. Ovalle's injury hinders how he interacts with his 22 loved ones? 23 MR. WRIGHT: Objection, form. 24 A. Not to my knowledge. 25 Q. (BY MR. HAYNES) And then it says, "This is a</p>
<p style="text-align: right;">191</p> <p>1 Q. So, this is covering a very narrow period of 2 the first essentially quarter of 2017, right? 3 A. I'm sorry. Can you -- I was trying to read. 4 Can you repeat that again, please? 5 Q. Sure. The -- this is -- and I think it's -- 6 it actually says it on the first page under "Manager 7 Comments." Right here. I'll point you to it. 8 A. Uh-huh. 9 Q. It says, "The bulk of this review is based on 10 the period from January through March of 2017," 11 correct? 12 A. Correct. 13 Q. All right. That's simply because he didn't 14 work the rest of the year -- 15 A. Correct. 16 Q. -- right? 17 All right. And it -- under Section 2, 18 it talks about "Responsibilities." Do you see that? 19 Right here. 20 A. Yes. 21 Q. The first one's "Safety"? 22 A. Uh-huh. 23 Q. Yes? 24 A. Yes. 25 Q. And it says "Manager Rating: Needs</p>	<p style="text-align: right;">193</p> <p>1 failure on everyone associated with the branch," 2 right? 3 A. I see that. 4 Q. Do you agree that Mr. Ovalle's injury is a 5 failure on everyone associated with the branch's part 6 at the United Rentals facility in Canyon? 7 MR. WRIGHT: Objection, form. 8 A. "This is a failure of everyone associated with 9 the branch." No, I wouldn't agree. I mean, there's 10 different -- different levels. I mean, everybody -- 11 we're trained. Everybody is trained on doing the 360. 12 There was nobody present at the time of the -- of the 13 activity taking place. 14 Q. (BY MR. HAYNES) Mr. Ovalle wasn't unsafe. 15 You've already said that, right? 16 A. Correct. 17 Q. Mr. Ovalle didn't fail, did he? 18 A. No. 19 Q. Okay. The rest of the reviews are either -- 20 let's see. He has -- excuse me. Let me strike that. 21 New question. 22 What does O.E.C. mean? 23 A. O.E.C. is the assets that we have. O.E.C. not 24 available is equipment or assets that we have that's 25 not available, and we're measured by that.</p>

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1 Q. Okay. Meaning, that it's -- it's equipment
2 that United Rentals owns and is in the business to
3 lease; but for whatever reason, it's not available to
4 be leased at that time?
5 A. Correct.
6 Q. And it says he needs improvement on that,
7 right?
8 A. Yes, I see it.
9 Q. Do you have any understanding why?
10 A. No.
11 Q. Okay. The remainder of the categories are all
12 good or very good, correct?
13 A. Correct.
14 Q. And the summary that the manager gives him on
15 page 114, where it says "Manager's Rating" under
16 "Competency Summary" -- do you see that? Page 114?
17 A. Yeah, yes.
18 Q. You there?
19 A. Uh-huh.
20 Q. The -- his manager rated him as very good,
21 right?
22 A. Correct.
23 Q. So, there's no doubt in your mind that
24 Mr. Ovalle was a very good employee, right?
25 A. Correct.

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1 Q. And you disagree with Mr. Ortegon's rating or
2 assessment that the injury of Mr. Ovalle was a failure
3 on everyone associated with the branch because you're
4 saying that Mr. Ovalle was working by himself?
5 A. If --
6 MR. WRIGHT: Objection, form.
7 A. Nobody else was there, right? So, it was --
8 nobody saw what occurred, right? If anybody
9 associated with the branch would have been there and
10 didn't perform a stop work or didn't intervene, then I
11 believe that statement would be true.
12 Q. (BY MR. HAYNES) Do you think that United
13 Rentals believes that maintaining a safe workplace is
14 a collective responsibility among all employees in
15 management?
16 A. Yes.
17 Q. So, when someone get -- gets hurt, doesn't
18 United Rentals believe that it's a failure by
19 everyone?
20 MR. WRIGHT: Objection, form.
21 A. Repeat that question again.
22 Q. (BY MR. HAYNES) Doesn't United Rentals
23 believe that, when someone gets hurt, it's a failure
24 on the part of everyone, it's a collective
25 responsibility?

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1 A. It is a collective --
2 MR. WRIGHT: Objection, form.
3 A. -- response -- yes.
4 Q. (BY MR. HAYNES) All right. What's your cell
5 phone number?
6 A. What's that?
7 Q. What's your cell phone number?
8 A. 40 --
9 Q. Oh, strike that. New question.
10 What was your cell phone number at the
11 time of this incident?
12 A. 409-273-2974.
13 Q. What was your carrier or -- yeah, at the time
14 of the incident, what was your carrier?
15 A. I believe it was AT&T.
16 Q. What kind of phone do you have?
17 A. iPhone.
18 Q. Do you still have the same phone that you had
19 back then?
20 A. No.
21 Q. Do you still have text messages and e-mails
22 from March of 2017 and April of 2017?
23 A. No.
24 Q. What happened to them?
25 A. Changed phones. When was that? We change

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1 phones probably every year.
2 Q. Okay. Is it a company phone?
3 A. Yes.
4 Q. Is it a company-issued phone or just a
5 company-reimbursed phone?
6 A. It's a company-issued phone.
7 Q. Okay. Who do you have to go through to get
8 the phone? Like which department?
9 A. I.T.
10 Q. Okay. Does I.T. also oversee the e-mails?
11 A. I believe so.
12 Q. Who oversees this database system we've been
13 talking about?
14 A. Corporate safety.
15 Q. In Chicago?
16 A. Yes.
17 MR. HAYNES: All right. Pass the
18 witness.
19 MR. WRIGHT: I'll reserve my questions.
20 THE VIDEOGRAPHER: Off the record, 2:41.
21 (Deposition concluded at 2:41 p.m.)
22
23
24
25

51 (Pages 198 to 201)

198	200
1 CHANGES AND SIGNATURE OF MICHAEL KARABANOFF	1 STATE OF TEXAS)
2 TAKEN AUGUST 12, 2019	2 COUNTY OF HARRIS)
3 PAGE/LINE CHANGE REASON	3
4	4 REPORTER'S CERTIFICATION
5	5 TO THE DEPOSITION OF
6	6 MICHAEL KARABANOFF
7	7 TAKEN ON AUGUST 12, 2019
8	8
9	9 I, Lisa D. Sanchez, Certified Shorthand
10	10 Reporter in and for the State of Texas, do hereby
11	11 certify that this deposition transcript is a true
12	12 record of the testimony given by the witness named
13	13 herein, after said witness was duly sworn by me.
14	14 I further certify that I am neither attorney,
15	15 nor counsel for, nor related to, nor employed by any
16	16 of the parties or attorneys in the action in which
17	17 this proceeding was taken. Further, I am not a
18	18 relative nor employee of any attorney of record in
19	19 this cause, nor do I have a financial interest in the
20	20 action.
21	21
22	22
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199	201
1 I, MICHAEL KARABANOFF, have read the foregoing	1 Certified to by me this 9th day of
2 deposition and hereby affix my signature that same is	2 September, 2019.
3 true and correct, except as noted above.	3
4	4
5	5
6 MICHAEL KARABANOFF	6
7	7
8 THE STATE OF _____)	8
9 COUNTY OF _____)	9
10	10 Lisa D. Sanchez, CSR
11 Before me, _____, on	11 Texas CSR No. 4766
12 this day personally appeared MICHAEL KARABANOFF, known	12 Expiration Date: 12-31-19
13 to me (or proved to me under oath or through	13 MONARCH REPORTING, INC.
14 _____) (description of identity card or	14 Firm Registration No. 314
15 other document) to be the person whose name is	15 Expiration Date: 5-31-21
16 subscribed to the foregoing instrument and	16 4109 Lillian Street
17 acknowledged to me that they executed the same for the	17 Houston, Texas 77007
18 purposes and consideration therein expressed.	18 Phone: (832) 618-1234
19 Given under my hand and seal of office this	19 Fax: (832) 618-1235
20 ____ day of _____, _____.	20
21	21
22	22
23 NOTARY PUBLIC IN AND FOR	23
24 THE STATE OF _____	24
25 My Commission Expires: _____	25

52 (Pages 202 to 204)

<p style="text-align: right;">202</p> <p>1 IN THE UNITED STATES DISTRICT COURT 2 NORTHERN DISTRICT OF TEXAS 3 AMARILLO DIVISION 4 ALBERTO OVALLE, § 5 § 6 PLAINTIFF, § 7 § 8 VS. § CIVIL ACTION 9 § NO. 2: 18-CV-00211-D-BR 10 § 11 UNITED RENTALS § 12 (NORTH AMERICA), INC., § JURY TRIAL 13 § 14 DEFENDANT. § 15 16 REPORTER'S CERTIFICATION 17 DEPOSITION OF MICHAEL KARABANOFF 18 AUGUST 12, 2019 19 20 I, Lisa D. Sanchez, a Certified Shorthand Reporter 21 in and for the State of Texas, hereby certify pursuant 22 to the Federal Rules and/or agreement of the parties 23 present to the following: 24 That this deposition transcript is a true record of 25 the testimony given by the witness named herein after said witness was duly sworn by me; That the amount of time used by each party at the deposition is as follows: Mr. Kevin C. Haynes, Attorney for Plaintiff - 4:01 Mr. Jeff C. Wright, Attorney for Defendant - 0:00</p>	<p style="text-align: right;">204</p> <p>1 Certified to by me this the ____ day of 2 _____, _____. 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p>Lisa D. Sanchez Texas CSR No. 4766 Expiration Date: 12-31-19 MONARCH REPORTING, INC. Firm Registration No. 314 Expiration Date: 5-31-21 4109 Lillian Street Houston, Texas 77007 Phone: (832) 618-1234 Fax: (832) 618-1235</p>
<p style="text-align: right;">203</p> <p>1 That a copy of the deposition transcript along with 2 the original changes and signature pages was submitted 3 on September 9, 2019, to the attorney for the 4 witness for examination, signature, and return of the 5 original changes and signature pages to Monarch 6 Reporting, Inc., to by October 9, 2019; 7 That the original changes and signature pages 8 were/were not returned to the deposition officer. All 9 changes made by the witness, if any, are attached 10 hereto; 11 That on _____ the original deposition 12 transcript, or a copy thereof, together with copies of 13 any exhibits was delivered to the custodial attorney, 14 Mr. Kevin C. Haynes, Attorney for Plaintiff; 15 That pursuant to information given to the 16 deposition officer at the time said testimony was 17 taken, the following includes counsel for all parties 18 of record: 19 Mr. Kevin C. Haynes, Attorney for Plaintiff; 20 Mr. Jeff C. Wright, Attorney for Defendant; 21 That a copy of this certificate was served on all 22 parties shown herein. 23 24 25</p>	